

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pension Code is amended by
5 changing Sections 1-110.6, 1-110.10, 1-110.15, 1-113.4,
6 1-113.4a, 1-113.5, 1-113.18, 2-162, 3-110, 4-108, 4-109.3,
7 18-169, and 22-1004 as follows:

8 (40 ILCS 5/1-110.6)

9 Sec. 1-110.6. Transactions prohibited by retirement
10 systems; Republic of the Sudan.

11 (a) The Government of the United States has determined
12 that Sudan is a nation that sponsors terrorism and genocide.
13 The General Assembly finds that acts of terrorism have caused
14 injury and death to Illinois and United States residents who
15 serve in the United States military, and pose a significant
16 threat to safety and health in Illinois. The General Assembly
17 finds that public employees and their families, including
18 police officers and firefighters, are more likely than others
19 to be affected by acts of terrorism. The General Assembly
20 finds that Sudan continues to solicit investment and
21 commercial activities by forbidden entities, including private
22 market funds. The General Assembly finds that investments in
23 forbidden entities are inherently and unduly risky, not in the

1 interests of public pensioners and Illinois taxpayers, and
2 against public policy. The General Assembly finds that Sudan's
3 capacity to sponsor terrorism and genocide depends on or is
4 supported by the activities of forbidden entities. The General
5 Assembly further finds and re-affirms that the people of the
6 State, acting through their representatives, do not want to be
7 associated with forbidden entities, genocide, and terrorism.

8 (b) For purposes of this Section:

9 "Business operations" means maintaining, selling, or
10 leasing equipment, facilities, personnel, or any other
11 apparatus of business or commerce in the Republic of the
12 Sudan, including the ownership or possession of real or
13 personal property located in the Republic of the Sudan.

14 "Certifying company" means a company that (1) directly
15 provides asset management services or advice to a retirement
16 system or (2) as directly authorized or requested by a
17 retirement system (A) identifies particular investment options
18 for consideration or approval; (B) chooses particular
19 investment options; or (C) allocates particular amounts to be
20 invested. If no company meets the criteria set forth in this
21 paragraph, then "certifying company" shall mean the retirement
22 system officer who, as designated by the board, executes the
23 investment decisions made by the board, or, in the
24 alternative, the company that the board authorizes to complete
25 the certification as the agent of that officer.

26 "Company" is any entity capable of affecting commerce,

1 including but not limited to (i) a government, government
2 agency, natural person, legal person, sole proprietorship,
3 partnership, firm, corporation, subsidiary, affiliate,
4 franchisor, franchisee, joint venture, trade association,
5 financial institution, utility, public franchise, provider of
6 financial services, trust, or enterprise; and (ii) any
7 association thereof.

8 "Division ~~Department~~" means the Public Pension Division of
9 the Department of Insurance ~~Financial and Professional~~
10 ~~Regulation~~.

11 "Forbidden entity" means any of the following:

12 (1) The government of the Republic of the Sudan and
13 any of its agencies, including but not limited to
14 political units and subdivisions;

15 (2) Any company that is wholly or partially managed or
16 controlled by the government of the Republic of the Sudan
17 and any of its agencies, including but not limited to
18 political units and subdivisions;

19 (3) Any company (i) that is established or organized
20 under the laws of the Republic of the Sudan or (ii) whose
21 principal place of business is in the Republic of the
22 Sudan;

23 (4) Any company (i) identified by the Office of
24 Foreign Assets Control in the United States Department of
25 the Treasury as sponsoring terrorist activities in the
26 Republic of the Sudan; or (ii) fined, penalized, or

1 sanctioned by the Office of Foreign Assets Control in the
2 United States Department of the Treasury for any violation
3 of any United States rules and restrictions relating to
4 the Republic of the Sudan that occurred at any time
5 following the effective date of this Act;

6 (5) Any publicly traded company that is individually
7 identified by an independent researching firm that
8 specializes in global security risk and that has been
9 retained by a certifying company as provided in subsection
10 (c) of this Section as being a company that owns or
11 controls property or assets located in, has employees or
12 facilities located in, provides goods or services to,
13 obtains goods or services from, has distribution
14 agreements with, issues credits or loans to, purchases
15 bonds or commercial paper issued by, or invests in (A) the
16 Republic of the Sudan; or (B) any company domiciled in the
17 Republic of the Sudan; and

18 (6) Any private market fund that fails to satisfy the
19 requirements set forth in subsections (d) and (e) of this
20 Section.

21 Notwithstanding the foregoing, the term "forbidden entity"
22 shall exclude (A) mutual funds that meet the requirements of
23 item (iii) of paragraph (13) of Section 1-113.2 and (B)
24 companies that transact business in the Republic of the Sudan
25 under the law, license, or permit of the United States,
26 including a license from the United States Department of the

1 Treasury, and companies, except agencies of the Republic of
2 the Sudan, who are certified as Non-Government Organizations
3 by the United Nations, or who engage solely in (i) the
4 provision of goods and services intended to relieve human
5 suffering or to promote welfare, health, religious and
6 spiritual activities, and education or humanitarian purposes;
7 or (ii) journalistic activities.

8 "Private market fund" means any private equity fund,
9 private equity fund of funds, venture capital fund, hedge
10 fund, hedge fund of funds, real estate fund, or other
11 investment vehicle that is not publicly traded.

12 "Republic of the Sudan" means those geographic areas of
13 the Republic of Sudan that are subject to sanction or other
14 restrictions placed on commercial activity imposed by the
15 United States Government due to an executive or congressional
16 declaration of genocide.

17 "Retirement system" means the State Employees' Retirement
18 System of Illinois, the Judges Retirement System of Illinois,
19 the General Assembly Retirement System, the State Universities
20 Retirement System, and the Teachers' Retirement System of the
21 State of Illinois.

22 (c) A retirement system shall not transfer or disburse
23 funds to, deposit into, acquire any bonds or commercial paper
24 from, or otherwise loan to or invest in any entity unless, as
25 provided in this Section, a certifying company certifies to
26 the retirement system that, (1) with respect to investments in

1 a publicly traded company, the certifying company has relied
2 on information provided by an independent researching firm
3 that specializes in global security risk and (2) 100% of the
4 retirement system's assets for which the certifying company
5 provides services or advice are not and have not been invested
6 or reinvested in any forbidden entity at any time after 4
7 months after the effective date of this Section.

8 The certifying company shall make the certification
9 required under this subsection (c) to a retirement system 6
10 months after the effective date of this Section and annually
11 thereafter. A retirement system shall submit the
12 certifications to the Division ~~Department~~, and the Division
13 ~~Department~~ shall notify the Director of Insurance ~~Secretary of~~
14 ~~Financial and Professional Regulation~~ if a retirement system
15 fails to do so.

16 (d) With respect to a commitment or investment made
17 pursuant to a written agreement executed prior to the
18 effective date of this Section, each private market fund shall
19 submit to the appropriate certifying company, at no additional
20 cost to the retirement system:

21 (1) an affidavit sworn under oath in which an
22 expressly authorized officer of the private market fund
23 avers that the private market fund (A) does not own or
24 control any property or asset located in the Republic of
25 the Sudan and (B) does not conduct business operations in
26 the Republic of the Sudan; or

1 (2) a certificate in which an expressly authorized
2 officer of the private market fund certifies that the
3 private market fund, based on reasonable due diligence,
4 has determined that, other than direct or indirect
5 investments in companies certified as Non-Government
6 Organizations by the United Nations, the private market
7 fund has no direct or indirect investment in any company
8 (A) organized under the laws of the Republic of the Sudan;
9 (B) whose principal place of business is in the Republic
10 of the Sudan; or (C) that conducts business operations in
11 the Republic of the Sudan. Such certificate shall be based
12 upon the periodic reports received by the private market
13 fund, and the private market fund shall agree that the
14 certifying company, directly or through an agent, or the
15 retirement system, as the case may be, may from time to
16 time review the private market fund's certification
17 process.

18 (e) With respect to a commitment or investment made
19 pursuant to a written agreement executed after the effective
20 date of this Section, each private market fund shall, at no
21 additional cost to the retirement system:

22 (1) submit to the appropriate certifying company an
23 affidavit or certificate consistent with the requirements
24 pursuant to subsection (d) of this Section; or

25 (2) enter into an enforceable written agreement with
26 the retirement system that provides for remedies

1 consistent with those set forth in subsection (g) of this
2 Section if any of the assets of the retirement system
3 shall be transferred, loaned, or otherwise invested in any
4 company that directly or indirectly (A) has facilities or
5 employees in the Republic of the Sudan or (B) conducts
6 business operations in the Republic of the Sudan.

7 (f) In addition to any other penalties and remedies
8 available under the law of Illinois and the United States, any
9 transaction, other than a transaction with a private market
10 fund that is governed by subsections (g) and (h) of this
11 Section, that violates the provisions of this Act shall be
12 against public policy and voidable, at the sole discretion of
13 the retirement system.

14 (g) If a private market fund fails to provide the
15 affidavit or certification required in subsections (d) and (e)
16 of this Section, then the retirement system shall, within 90
17 days, divest, or attempt in good faith to divest, the
18 retirement system's interest in the private market fund,
19 provided that the Board of the retirement system confirms
20 through resolution that the divestment does not have a
21 material and adverse impact on the retirement system. The
22 retirement system shall immediately notify the Division
23 ~~Department~~, and the Division ~~Department~~ shall notify all other
24 retirement systems, as soon as practicable, by posting the
25 name of the private market fund on the Division's ~~Department's~~
26 Internet website or through e-mail communications. No other

1 retirement system may enter into any agreement under which the
2 retirement system directly or indirectly invests in the
3 private market fund unless the private market fund provides
4 that retirement system with the affidavit or certification
5 required in subsections (d) and (e) of this Section and
6 complies with all other provisions of this Section.

7 (h) If a private market fund fails to fulfill its
8 obligations under any agreement provided for in paragraph (2)
9 of subsection (e) of this Section, the retirement system shall
10 immediately take legal and other action to obtain satisfaction
11 through all remedies and penalties available under the law and
12 the agreement itself. The retirement system shall immediately
13 notify the Division Department, and the Division Department
14 shall notify all other retirement systems, as soon as
15 practicable, by posting the name of the private market fund on
16 the Division's Department's Internet website or through e-mail
17 communications, and no other retirement system may enter into
18 any agreement under which the retirement system directly or
19 indirectly invests in the private market fund.

20 (i) This Section shall have full force and effect during
21 any period in which the Republic of the Sudan, or the officials
22 of the government of that Republic, are subject to sanctions
23 authorized under any statute or executive order of the United
24 States or until such time as the State Department of the United
25 States confirms in the federal register or through other means
26 that the Republic of the Sudan is no longer subject to

1 sanctions by the government of the United States.

2 (j) If any provision of this Section or its application to
3 any person or circumstance is held invalid, the invalidity of
4 that provision or application does not affect other provisions
5 or applications of this Section that can be given effect
6 without the invalid provision or application.

7 (Source: P.A. 95-521, eff. 8-28-07.)

8 (40 ILCS 5/1-110.10)

9 Sec. 1-110.10. Servicer certification.

10 (a) For the purposes of this Section:

11 "Illinois finance entity" means any entity chartered under
12 the Illinois Banking Act, the Savings Bank Act, the Illinois
13 Credit Union Act, or the Illinois Savings and Loan Act of 1985
14 and any person or entity licensed under the Residential
15 Mortgage License Act of 1987, the Consumer Installment Loan
16 Act, or the Sales Finance Agency Act.

17 "Retirement system or pension fund" means a retirement
18 system or pension fund established under this Code.

19 (b) In order for an Illinois finance entity to be eligible
20 for investment or deposit of retirement system or pension fund
21 assets, the Illinois finance entity must annually certify that
22 it complies with the requirements of the High Risk Home Loan
23 Act and the rules adopted pursuant to that Act that are
24 applicable to that Illinois finance entity. For Illinois
25 finance entities with whom the retirement system or pension

1 fund is investing or depositing assets on the effective date
2 of this Section, the initial certification required under this
3 Section shall be completed within 6 months after the effective
4 date of this Section. For Illinois finance entities with whom
5 the retirement system or pension fund is not investing or
6 depositing assets on the effective date of this Section, the
7 initial certification required under this Section must be
8 completed before the retirement system or pension fund may
9 invest or deposit assets with the Illinois finance entity.

10 (c) A retirement system or pension fund shall submit the
11 certifications to the Public Pension Division of the
12 Department of Insurance ~~Financial and Professional Regulation~~,
13 and the Division shall notify the Director of Insurance
14 ~~Secretary of Financial and Professional Regulation~~ if a
15 retirement system or pension fund fails to do so.

16 (d) If an Illinois finance entity fails to provide an
17 initial certification within 6 months after the effective date
18 of this Section or fails to submit an annual certification,
19 then the retirement system or pension fund shall notify the
20 Illinois finance entity. The Illinois finance entity shall,
21 within 30 days after the date of notification, either (i)
22 notify the retirement system or pension fund of its intention
23 to certify and complete certification or (ii) notify the
24 retirement system or pension fund of its intention to not
25 complete certification. If an Illinois finance entity fails to
26 provide certification, then the retirement system or pension

1 fund shall, within 90 days, divest, or attempt in good faith to
2 divest, the retirement system's or pension fund's assets with
3 that Illinois finance entity. The retirement system or pension
4 fund shall immediately notify the Public Pension Division of
5 the Department of Insurance ~~Department~~ of the Illinois finance
6 entity's failure to provide certification.

7 (e) If any provision of this Section or its application to
8 any person or circumstance is held invalid, the invalidity of
9 that provision or application does not affect other provisions
10 or applications of this Section that can be given effect
11 without the invalid provision or application.

12 (Source: P.A. 95-521, eff. 8-28-07; 95-876, eff. 8-21-08.)

13 (40 ILCS 5/1-110.15)

14 Sec. 1-110.15. Transactions prohibited by retirement
15 systems; Iran.

16 (a) As used in this Section:

17 "Active business operations" means all business operations
18 that are not inactive business operations.

19 "Business operations" means engaging in commerce in any
20 form in Iran, including, but not limited to, acquiring,
21 developing, maintaining, owning, selling, possessing, leasing,
22 or operating equipment, facilities, personnel, products,
23 services, personal property, real property, or any other
24 apparatus of business or commerce.

25 "Company" means any sole proprietorship, organization,

1 association, corporation, partnership, joint venture, limited
2 partnership, limited liability partnership, limited liability
3 company, or other entity or business association, including
4 all wholly owned subsidiaries, majority-owned subsidiaries,
5 parent companies, or affiliates of those entities or business
6 associations, that exists for the purpose of making profit.

7 "Direct holdings" in a company means all securities of
8 that company that are held directly by the retirement system
9 or in an account or fund in which the retirement system owns
10 all shares or interests.

11 "Inactive business operations" means the mere continued
12 holding or renewal of rights to property previously operated
13 for the purpose of generating revenues but not presently
14 deployed for that purpose.

15 "Indirect holdings" in a company means all securities of
16 that company which are held in an account or fund, such as a
17 mutual fund, managed by one or more persons not employed by the
18 retirement system, in which the retirement system owns shares
19 or interests together with other investors not subject to the
20 provisions of this Section.

21 "Mineral-extraction activities" include exploring,
22 extracting, processing, transporting, or wholesale selling or
23 trading of elemental minerals or associated metal alloys or
24 oxides (ore), including gold, copper, chromium, chromite,
25 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc.

26 "Oil-related activities" include, but are not limited to,

1 owning rights to oil blocks; exporting, extracting, producing,
2 refining, processing, exploring for, transporting, selling, or
3 trading of oil; and constructing, maintaining, or operating a
4 pipeline, refinery, or other oil-field infrastructure. The
5 mere retail sale of gasoline and related consumer products is
6 not considered an oil-related activity.

7 "Petroleum resources" means petroleum, petroleum
8 byproducts, or natural gas.

9 "Private market fund" means any private equity fund,
10 private equity fund of funds, venture capital fund, hedge
11 fund, hedge fund of funds, real estate fund, or other
12 investment vehicle that is not publicly traded.

13 "Retirement system" means the State Employees' Retirement
14 System of Illinois, the Judges Retirement System of Illinois,
15 the General Assembly Retirement System, the State Universities
16 Retirement System, and the Teachers' Retirement System of the
17 State of Illinois.

18 "Scrutinized business operations" means business
19 operations that have caused a company to become a scrutinized
20 company.

21 "Scrutinized company" means the company has business
22 operations that involve contracts with or provision of
23 supplies or services to the Government of Iran, companies in
24 which the Government of Iran has any direct or indirect equity
25 share, consortiums or projects commissioned by the Government
26 of Iran, or companies involved in consortiums or projects

1 commissioned by the Government of Iran and:

2 (1) more than 10% of the company's revenues produced
3 in or assets located in Iran involve oil-related
4 activities or mineral-extraction activities; less than 75%
5 of the company's revenues produced in or assets located in
6 Iran involve contracts with or provision of oil-related or
7 mineral-extraction products or services to the Government
8 of Iran or a project or consortium created exclusively by
9 that government; and the company has failed to take
10 substantial action; or

11 (2) the company has, on or after August 5, 1996, made
12 an investment of \$20 million or more, or any combination
13 of investments of at least \$10 million each that in the
14 aggregate equals or exceeds \$20 million in any 12-month
15 period, that directly or significantly contributes to the
16 enhancement of Iran's ability to develop petroleum
17 resources of Iran.

18 "Substantial action" means adopting, publicizing, and
19 implementing a formal plan to cease scrutinized business
20 operations within one year and to refrain from any such new
21 business operations.

22 (b) Within 90 days after the effective date of this
23 Section, a retirement system shall make its best efforts to
24 identify all scrutinized companies in which the retirement
25 system has direct or indirect holdings.

26 These efforts shall include the following, as appropriate

1 in the retirement system's judgment:

2 (1) reviewing and relying on publicly available
3 information regarding companies having business operations
4 in Iran, including information provided by nonprofit
5 organizations, research firms, international
6 organizations, and government entities;

7 (2) contacting asset managers contracted by the
8 retirement system that invest in companies having business
9 operations in Iran; and

10 (3) Contacting other institutional investors that have
11 divested from or engaged with companies that have business
12 operations in Iran.

13 The retirement system may retain an independent research
14 firm to identify scrutinized companies in which the retirement
15 system has direct or indirect holdings. By the first meeting
16 of the retirement system following the 90-day period described
17 in this subsection (b), the retirement system shall assemble
18 all scrutinized companies identified into a scrutinized
19 companies list.

20 The retirement system shall update the scrutinized
21 companies list annually based on evolving information from,
22 among other sources, those listed in this subsection (b).

23 (c) The retirement system shall adhere to the following
24 procedures for companies on the scrutinized companies list:

25 (1) The retirement system shall determine the
26 companies on the scrutinized companies list in which the

1 retirement system owns direct or indirect holdings.

2 (2) For each company identified in item (1) of this
3 subsection (c) that has only inactive business operations,
4 the retirement system shall send a written notice
5 informing the company of this Section and encouraging it
6 to continue to refrain from initiating active business
7 operations in Iran until it is able to avoid scrutinized
8 business operations. The retirement system shall continue
9 such correspondence semiannually.

10 (3) For each company newly identified in item (1) of
11 this subsection (c) that has active business operations,
12 the retirement system shall send a written notice
13 informing the company of its scrutinized company status
14 and that it may become subject to divestment by the
15 retirement system. The notice must inform the company of
16 the opportunity to clarify its Iran-related activities and
17 encourage the company, within 90 days, to cease its
18 scrutinized business operations or convert such operations
19 to inactive business operations in order to avoid
20 qualifying for divestment by the retirement system.

21 (4) If, within 90 days after the retirement system's
22 first engagement with a company pursuant to this
23 subsection (c), that company ceases scrutinized business
24 operations, the company shall be removed from the
25 scrutinized companies list and the provisions of this
26 Section shall cease to apply to it unless it resumes

1 scrutinized business operations. If, within 90 days after
2 the retirement system's first engagement, the company
3 converts its scrutinized active business operations to
4 inactive business operations, the company is subject to
5 all provisions relating thereto.

6 (d) If, after 90 days following the retirement system's
7 first engagement with a company pursuant to subsection (c),
8 the company continues to have scrutinized active business
9 operations, and only while such company continues to have
10 scrutinized active business operations, the retirement system
11 shall sell, redeem, divest, or withdraw all publicly traded
12 securities of the company, except as provided in paragraph
13 (f), from the retirement system's assets under management
14 within 12 months after the company's most recent appearance on
15 the scrutinized companies list.

16 If a company that ceased scrutinized active business
17 operations following engagement pursuant to subsection (c)
18 resumes such operations, this subsection (d) immediately
19 applies, and the retirement system shall send a written notice
20 to the company. The company shall also be immediately
21 reintroduced onto the scrutinized companies list.

22 (e) The retirement system may not acquire securities of
23 companies on the scrutinized companies list that have active
24 business operations, except as provided in subsection (f).

25 (f) A company that the United States Government
26 affirmatively declares to be excluded from its present or any

1 future federal sanctions regime relating to Iran is not
2 subject to divestment or the investment prohibition pursuant
3 to subsections (d) and (e).

4 (g) Notwithstanding the provisions of this Section,
5 paragraphs (d) and (e) do not apply to indirect holdings in a
6 private market fund. However, the retirement system shall
7 submit letters to the managers of those investment funds
8 containing companies that have scrutinized active business
9 operations requesting that they consider removing the
10 companies from the fund or create a similar actively managed
11 fund having indirect holdings devoid of the companies. If the
12 manager creates a similar fund, the retirement system shall
13 replace all applicable investments with investments in the
14 similar fund in an expedited timeframe consistent with prudent
15 investing standards.

16 (h) The retirement system shall file a report with the
17 Public Pension Division of the Department of Insurance
18 ~~Financial and Professional Regulation~~ that includes the
19 scrutinized companies list within 30 days after the list is
20 created. This report shall be made available to the public.

21 The retirement system shall file an annual report with the
22 Public Pension Division, which shall be made available to the
23 public, that includes all of the following:

24 (1) A summary of correspondence with companies engaged
25 by the retirement system under items (2) and (3) of
26 subsection (c).

1 (2) All investments sold, redeemed, divested, or
2 withdrawn in compliance with subsection (d).

3 (3) All prohibited investments under subsection (e).

4 (4) A summary of correspondence with private market
5 funds notified under subsection (g).

6 (i) This Section expires upon the occurrence of any of the
7 following:

8 (1) The United States revokes all sanctions imposed
9 against the Government of Iran.

10 (2) The Congress or President of the United States
11 declares that the Government of Iran has ceased to acquire
12 weapons of mass destruction and to support international
13 terrorism.

14 (3) The Congress or President of the United States,
15 through legislation or executive order, declares that
16 mandatory divestment of the type provided for in this
17 Section interferes with the conduct of United States
18 foreign policy.

19 (j) With respect to actions taken in compliance with this
20 Act, including all good-faith determinations regarding
21 companies as required by this Act, the retirement system is
22 exempt from any conflicting statutory or common law
23 obligations, including any fiduciary duties under this Article
24 and any obligations with respect to choice of asset managers,
25 investment funds, or investments for the retirement system's
26 securities portfolios.

1 (k) Notwithstanding any other provision of this Section to
2 the contrary, the retirement system may cease divesting from
3 scrutinized companies pursuant to subsection (d) or reinvest
4 in scrutinized companies from which it divested pursuant to
5 subsection (d) if clear and convincing evidence shows that the
6 value of investments in scrutinized companies with active
7 scrutinized business operations becomes equal to or less than
8 0.5% of the market value of all assets under management by the
9 retirement system. Cessation of divestment, reinvestment, or
10 any subsequent ongoing investment authorized by this Section
11 is limited to the minimum steps necessary to avoid the
12 contingency set forth in this subsection (k). For any
13 cessation of divestment, reinvestment, or subsequent ongoing
14 investment authorized by this Section, the retirement system
15 shall provide a written report to the Public Pension Division
16 in advance of initial reinvestment, updated semiannually
17 thereafter as applicable, setting forth the reasons and
18 justification, supported by clear and convincing evidence, for
19 its decisions to cease divestment, reinvest, or remain
20 invested in companies having scrutinized active business
21 operations. This Section does not apply to reinvestment in
22 companies on the grounds that they have ceased to have
23 scrutinized active business operations.

24 (1) If any provision of this Section or its application to
25 any person or circumstance is held invalid, the invalidity
26 does not affect other provisions or applications of the Act

1 which can be given effect without the invalid provision or
2 application, and to this end the provisions of this Section
3 are severable.

4 (Source: P.A. 95-616, eff. 1-1-08; 95-876, eff. 8-21-08.)

5 (40 ILCS 5/1-113.4)

6 Sec. 1-113.4. List of additional permitted investments for
7 pension funds with net assets of \$5,000,000 or more.

8 (a) In addition to the items in Sections 1-113.2 and
9 1-113.3, a pension fund established under Article 3 or 4 that
10 has net assets of at least \$5,000,000 and has appointed an
11 investment adviser under Section 1-113.5 may, through that
12 investment adviser, invest a portion of its assets in common
13 and preferred stocks authorized for investments of trust funds
14 under the laws of the State of Illinois. The stocks must meet
15 all of the following requirements:

16 (1) The common stocks are listed on a national
17 securities exchange or board of trade (as defined in the
18 federal Securities Exchange Act of 1934 and set forth in
19 subdivision G of Section 3 of the Illinois Securities Law
20 of 1953) or quoted in the National Association of
21 Securities Dealers Automated Quotation System National
22 Market System (NASDAQ NMS).

23 (2) The securities are of a corporation created or
24 existing under the laws of the United States or any state,
25 district, or territory thereof and the corporation has

1 been in existence for at least 5 years.

2 (3) The corporation has not been in arrears on payment
3 of dividends on its preferred stock during the preceding 5
4 years.

5 (4) The market value of stock in any one corporation
6 does not exceed 5% of the cash and invested assets of the
7 pension fund, and the investments in the stock of any one
8 corporation do not exceed 5% of the total outstanding
9 stock of that corporation.

10 (5) The straight preferred stocks or convertible
11 preferred stocks are issued or guaranteed by a corporation
12 whose common stock qualifies for investment by the board.

13 (6) The issuer of the stocks has been subject to the
14 requirements of Section 12 of the federal Securities
15 Exchange Act of 1934 and has been current with the filing
16 requirements of Sections 13 and 14 of that Act during the
17 preceding 3 years.

18 (b) A pension fund's total investment in the items
19 authorized under this Section and Section 1-113.3 shall not
20 exceed 35% of the market value of the pension fund's net
21 present assets stated in its most recent annual report on file
22 with the Public Pension Division of the ~~Illinois~~ Department of
23 Insurance.

24 (c) A pension fund that invests funds under this Section
25 shall electronically file with the Public Pension Division of
26 the Department of Insurance any reports of its investment

1 activities that the Division may require, at the times and in
2 the format required by the Division.

3 (Source: P.A. 100-201, eff. 8-18-17.)

4 (40 ILCS 5/1-113.4a)

5 Sec. 1-113.4a. List of additional permitted investments
6 for Article 3 and 4 pension funds with net assets of
7 \$10,000,000 or more.

8 (a) In addition to the items in Sections 1-113.2 and
9 1-113.3, a pension fund established under Article 3 or 4 that
10 has net assets of at least \$10,000,000 and has appointed an
11 investment adviser, as defined under Sections 1-101.4 and
12 1-113.5, may, through that investment adviser, invest an
13 additional portion of its assets in common and preferred
14 stocks and mutual funds.

15 (b) The stocks must meet all of the following
16 requirements:

17 (1) The common stocks must be listed on a national
18 securities exchange or board of trade (as defined in the
19 Federal Securities Exchange Act of 1934 and set forth in
20 paragraph G of Section 3 of the Illinois Securities Law of
21 1953) or quoted in the National Association of Securities
22 Dealers Automated Quotation System National Market System.

23 (2) The securities must be of a corporation in
24 existence for at least 5 years.

25 (3) The market value of stock in any one corporation

1 may not exceed 5% of the cash and invested assets of the
2 pension fund, and the investments in the stock of any one
3 corporation may not exceed 5% of the total outstanding
4 stock of that corporation.

5 (4) The straight preferred stocks or convertible
6 preferred stocks must be issued or guaranteed by a
7 corporation whose common stock qualifies for investment by
8 the board.

9 (c) The mutual funds must meet the following requirements:

10 (1) The mutual fund must be managed by an investment
11 company registered under the Federal Investment Company
12 Act of 1940 and registered under the Illinois Securities
13 Law of 1953.

14 (2) The mutual fund must have been in operation for at
15 least 5 years.

16 (3) The mutual fund must have total net assets of
17 \$250,000,000 or more.

18 (4) The mutual fund must be comprised of a diversified
19 portfolio of common or preferred stocks, bonds, or money
20 market instruments.

21 (d) A pension fund's total investment in the items
22 authorized under this Section and Section 1-113.3 shall not
23 exceed 50% effective July 1, 2011 and 55% effective July 1,
24 2012 of the market value of the pension fund's net present
25 assets stated in its most recent annual report on file with the
26 Public Pension Division of the Department of Insurance.

1 (e) A pension fund that invests funds under this Section
2 shall electronically file with the Public Pension Division of
3 the Department of Insurance any reports of its investment
4 activities that the Division may require, at the time and in
5 the format required by the Division.

6 (Source: P.A. 96-1495, eff. 1-1-11.)

7 (40 ILCS 5/1-113.5)

8 Sec. 1-113.5. Investment advisers and investment services
9 for all Article 3 or 4 pension funds.

10 (a) The board of trustees of a pension fund may appoint
11 investment advisers as defined in Section 1-101.4. The board
12 of any pension fund investing in common or preferred stock
13 under Section 1-113.4 shall appoint an investment adviser
14 before making such investments.

15 The investment adviser shall be a fiduciary, as defined in
16 Section 1-101.2, with respect to the pension fund and shall be
17 one of the following:

18 (1) an investment adviser registered under the federal
19 Investment Advisers Act of 1940 and the Illinois
20 Securities Law of 1953;

21 (2) a bank or trust company authorized to conduct a
22 trust business in Illinois;

23 (3) a life insurance company authorized to transact
24 business in Illinois; or

25 (4) an investment company as defined and registered

1 under the federal Investment Company Act of 1940 and
2 registered under the Illinois Securities Law of 1953.

3 (a-5) Notwithstanding any other provision of law, a person
4 or entity that provides consulting services (referred to as a
5 "consultant" in this Section) to a pension fund with respect
6 to the selection of fiduciaries may not be awarded a contract
7 to provide those consulting services that is more than 5 years
8 in duration. No contract to provide such consulting services
9 may be renewed or extended. At the end of the term of a
10 contract, however, the contractor is eligible to compete for a
11 new contract. No person shall attempt to avoid or contravene
12 the restrictions of this subsection by any means. All offers
13 from responsive offerors shall be accompanied by disclosure of
14 the names and addresses of the following:

15 (1) The offeror.

16 (2) Any entity that is a parent of, or owns a
17 controlling interest in, the offeror.

18 (3) Any entity that is a subsidiary of, or in which a
19 controlling interest is owned by, the offeror.

20 Beginning on July 1, 2008, a person, other than a trustee
21 or an employee of a pension fund or retirement system, may not
22 act as a consultant under this Section unless that person is at
23 least one of the following: (i) registered as an investment
24 adviser under the federal Investment Advisers Act of 1940 (15
25 U.S.C. 80b-1, et seq.); (ii) registered as an investment
26 adviser under the Illinois Securities Law of 1953; (iii) a

1 bank, as defined in the Investment Advisers Act of 1940; or
2 (iv) an insurance company authorized to transact business in
3 this State.

4 (b) All investment advice and services provided by an
5 investment adviser or a consultant appointed under this
6 Section shall be rendered pursuant to a written contract
7 between the investment adviser and the board, and in
8 accordance with the board's investment policy.

9 The contract shall include all of the following:

10 (1) acknowledgement in writing by the investment
11 adviser that he or she is a fiduciary with respect to the
12 pension fund;

13 (2) the board's investment policy;

14 (3) full disclosure of direct and indirect fees,
15 commissions, penalties, and any other compensation that
16 may be received by the investment adviser, including
17 reimbursement for expenses; and

18 (4) a requirement that the investment adviser submit
19 periodic written reports, on at least a quarterly basis,
20 for the board's review at its regularly scheduled
21 meetings. All returns on investment shall be reported as
22 net returns after payment of all fees, commissions, and
23 any other compensation.

24 (b-5) Each contract described in subsection (b) shall also
25 include (i) full disclosure of direct and indirect fees,
26 commissions, penalties, and other compensation, including

1 reimbursement for expenses, that may be paid by or on behalf of
2 the investment adviser or consultant in connection with the
3 provision of services to the pension fund and (ii) a
4 requirement that the investment adviser or consultant update
5 the disclosure promptly after a modification of those payments
6 or an additional payment.

7 Within 30 days after the effective date of this amendatory
8 Act of the 95th General Assembly, each investment adviser and
9 consultant providing services on the effective date or subject
10 to an existing contract for the provision of services must
11 disclose to the board of trustees all direct and indirect
12 fees, commissions, penalties, and other compensation paid by
13 or on behalf of the investment adviser or consultant in
14 connection with the provision of those services and shall
15 update that disclosure promptly after a modification of those
16 payments or an additional payment.

17 A person required to make a disclosure under subsection
18 (d) is also required to disclose direct and indirect fees,
19 commissions, penalties, or other compensation that shall or
20 may be paid by or on behalf of the person in connection with
21 the rendering of those services. The person shall update the
22 disclosure promptly after a modification of those payments or
23 an additional payment.

24 The disclosures required by this subsection shall be in
25 writing and shall include the date and amount of each payment
26 and the name and address of each recipient of a payment.

1 (c) Within 30 days after appointing an investment adviser
2 or consultant, the board shall submit a copy of the contract to
3 the Public Pension Division of the Department of Insurance ~~of~~
4 ~~the Department of Financial and Professional Regulation.~~

5 (d) Investment services provided by a person other than an
6 investment adviser appointed under this Section, including but
7 not limited to services provided by the kinds of persons
8 listed in items (1) through (4) of subsection (a), shall be
9 rendered only after full written disclosure of direct and
10 indirect fees, commissions, penalties, and any other
11 compensation that shall or may be received by the person
12 rendering those services.

13 (e) The board of trustees of each pension fund shall
14 retain records of investment transactions in accordance with
15 the rules of the Public Pension Division of the Department of
16 Insurance ~~Financial and Professional Regulation.~~

17 (Source: P.A. 95-950, eff. 8-29-08; 96-6, eff. 4-3-09.)

18 (40 ILCS 5/1-113.18)

19 Sec. 1-113.18. Ethics training. All board members of a
20 retirement system, pension fund, or investment board created
21 under this Code must attend ethics training of at least 8 hours
22 per year. The training required under this Section shall
23 include training on ethics, fiduciary duty, and investment
24 issues and any other curriculum that the board of the
25 retirement system, pension fund, or investment board

1 establishes as being important for the administration of the
2 retirement system, pension fund, or investment board. The
3 Supreme Court of Illinois shall be responsible for ethics
4 training and curriculum for judges designated by the Court to
5 serve as members of a retirement system, pension fund, or
6 investment board. Each board shall annually certify its
7 members' compliance with this Section and submit an annual
8 certification to the Public Pension Division of the Department
9 of Insurance ~~of the Department of Financial and Professional~~
10 ~~Regulation~~. Judges shall annually certify compliance with the
11 ethics training requirement and shall submit an annual
12 certification to the Chief Justice of the Supreme Court of
13 Illinois. For an elected or appointed trustee under Article 3
14 or 4 of this Code, fulfillment of the requirements of Section
15 1-109.3 satisfies the requirements of this Section.

16 (Source: P.A. 100-904, eff. 8-17-18.)

17 (40 ILCS 5/2-162)

18 (Text of Section WITHOUT the changes made by P.A. 98-599,
19 which has been held unconstitutional)

20 Sec. 2-162. Application and expiration of new benefit
21 increases.

22 (a) As used in this Section, "new benefit increase" means
23 an increase in the amount of any benefit provided under this
24 Article, or an expansion of the conditions of eligibility for
25 any benefit under this Article, that results from an amendment

1 to this Code that takes effect after the effective date of this
2 amendatory Act of the 94th General Assembly.

3 (b) Notwithstanding any other provision of this Code or
4 any subsequent amendment to this Code, every new benefit
5 increase is subject to this Section and shall be deemed to be
6 granted only in conformance with and contingent upon
7 compliance with the provisions of this Section.

8 (c) The Public Act enacting a new benefit increase must
9 identify and provide for payment to the System of additional
10 funding at least sufficient to fund the resulting annual
11 increase in cost to the System as it accrues.

12 Every new benefit increase is contingent upon the General
13 Assembly providing the additional funding required under this
14 subsection. The Commission on Government Forecasting and
15 Accountability shall analyze whether adequate additional
16 funding has been provided for the new benefit increase and
17 shall report its analysis to the Public Pension Division of
18 the Department of Insurance ~~Financial and Professional~~
19 ~~Regulation~~. A new benefit increase created by a Public Act
20 that does not include the additional funding required under
21 this subsection is null and void. If the Public Pension
22 Division determines that the additional funding provided for a
23 new benefit increase under this subsection is or has become
24 inadequate, it may so certify to the Governor and the State
25 Comptroller and, in the absence of corrective action by the
26 General Assembly, the new benefit increase shall expire at the

1 end of the fiscal year in which the certification is made.

2 (d) Every new benefit increase shall expire 5 years after
3 its effective date or on such earlier date as may be specified
4 in the language enacting the new benefit increase or provided
5 under subsection (c). This does not prevent the General
6 Assembly from extending or re-creating a new benefit increase
7 by law.

8 (e) Except as otherwise provided in the language creating
9 the new benefit increase, a new benefit increase that expires
10 under this Section continues to apply to persons who applied
11 and qualified for the affected benefit while the new benefit
12 increase was in effect and to the affected beneficiaries and
13 alternate payees of such persons, but does not apply to any
14 other person, including without limitation a person who
15 continues in service after the expiration date and did not
16 apply and qualify for the affected benefit while the new
17 benefit increase was in effect.

18 (Source: P.A. 94-4, eff. 6-1-05.)

19 (40 ILCS 5/3-110) (from Ch. 108 1/2, par. 3-110)

20 Sec. 3-110. Creditable service.

21 (a) "Creditable service" is the time served by a police
22 officer as a member of a regularly constituted police force of
23 a municipality. In computing creditable service furloughs
24 without pay exceeding 30 days shall not be counted, but all
25 leaves of absence for illness or accident, regardless of

1 length, and all periods of disability retirement for which a
2 police officer has received no disability pension payments
3 under this Article shall be counted.

4 (a-5) Up to 3 years of time during which the police officer
5 receives a disability pension under Section 3-114.1, 3-114.2,
6 3-114.3, or 3-114.6 shall be counted as creditable service,
7 provided that (i) the police officer returns to active service
8 after the disability for a period at least equal to the period
9 for which credit is to be established and (ii) the police
10 officer makes contributions to the fund based on the rates
11 specified in Section 3-125.1 and the salary upon which the
12 disability pension is based. These contributions may be paid
13 at any time prior to the commencement of a retirement pension.
14 The police officer may, but need not, elect to have the
15 contributions deducted from the disability pension or to pay
16 them in installments on a schedule approved by the board. If
17 not deducted from the disability pension, the contributions
18 shall include interest at the rate of 6% per year, compounded
19 annually, from the date for which service credit is being
20 established to the date of payment. If contributions are paid
21 under this subsection (a-5) in excess of those needed to
22 establish the credit, the excess shall be refunded. This
23 subsection (a-5) applies to persons receiving a disability
24 pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on
25 the effective date of this amendatory Act of the 91st General
26 Assembly, as well as persons who begin to receive such a

1 disability pension after that date.

2 (b) Creditable service includes all periods of service in
3 the military, naval or air forces of the United States entered
4 upon while an active police officer of a municipality,
5 provided that upon applying for a permanent pension, and in
6 accordance with the rules of the board, the police officer
7 pays into the fund the amount the officer would have
8 contributed if he or she had been a regular contributor during
9 such period, to the extent that the municipality which the
10 police officer served has not made such contributions in the
11 officer's behalf. The total amount of such creditable service
12 shall not exceed 5 years, except that any police officer who on
13 July 1, 1973 had more than 5 years of such creditable service
14 shall receive the total amount thereof.

15 (b-5) Creditable service includes all periods of service
16 in the military, naval, or air forces of the United States
17 entered upon before beginning service as an active police
18 officer of a municipality, provided that, in accordance with
19 the rules of the board, the police officer pays into the fund
20 the amount the police officer would have contributed if he or
21 she had been a regular contributor during such period, plus an
22 amount determined by the Board to be equal to the
23 municipality's normal cost of the benefit, plus interest at
24 the actuarially assumed rate calculated from the date the
25 employee last became a police officer under this Article. The
26 total amount of such creditable service shall not exceed 2

1 years.

2 (c) Creditable service also includes service rendered by a
3 police officer while on leave of absence from a police
4 department to serve as an executive of an organization whose
5 membership consists of members of a police department, subject
6 to the following conditions: (i) the police officer is a
7 participant of a fund established under this Article with at
8 least 10 years of service as a police officer; (ii) the police
9 officer received no credit for such service under any other
10 retirement system, pension fund, or annuity and benefit fund
11 included in this Code; (iii) pursuant to the rules of the board
12 the police officer pays to the fund the amount he or she would
13 have contributed had the officer been an active member of the
14 police department; (iv) the organization pays a contribution
15 equal to the municipality's normal cost for that period of
16 service; and (v) for all leaves of absence under this
17 subsection (c), including those beginning before the effective
18 date of this amendatory Act of the 97th General Assembly, the
19 police officer continues to remain in sworn status, subject to
20 the professional standards of the public employer or those
21 terms established in statute.

22 (d) (1) Creditable service also includes periods of
23 service originally established in another police pension
24 fund under this Article or in the Fund established under
25 Article 7 of this Code for which (i) the contributions
26 have been transferred under Section 3-110.7 or Section

1 7-139.9 and (ii) any additional contribution required
2 under paragraph (2) of this subsection has been paid in
3 full in accordance with the requirements of this
4 subsection (d).

5 (2) If the board of the pension fund to which
6 creditable service and related contributions are
7 transferred under Section 7-139.9 determines that the
8 amount transferred is less than the true cost to the
9 pension fund of allowing that creditable service to be
10 established, then in order to establish that creditable
11 service the police officer must pay to the pension fund,
12 within the payment period specified in paragraph (3) of
13 this subsection, an additional contribution equal to the
14 difference, as determined by the board in accordance with
15 the rules and procedures adopted under paragraph (6) of
16 this subsection. If the board of the pension fund to which
17 creditable service and related contributions are
18 transferred under Section 3-110.7 determines that the
19 amount transferred is less than the true cost to the
20 pension fund of allowing that creditable service to be
21 established, then the police officer may elect (A) to
22 establish that creditable service by paying to the pension
23 fund, within the payment period specified in paragraph (3)
24 of this subsection (d), an additional contribution equal
25 to the difference, as determined by the board in
26 accordance with the rules and procedures adopted under

1 paragraph (6) of this subsection (d) or (B) to have his or
2 her creditable service reduced by an amount equal to the
3 difference between the amount transferred under Section
4 3-110.7 and the true cost to the pension fund of allowing
5 that creditable service to be established, as determined
6 by the board in accordance with the rules and procedures
7 adopted under paragraph (6) of this subsection (d).

8 (3) Except as provided in paragraph (4), the
9 additional contribution that is required or elected under
10 paragraph (2) of this subsection (d) must be paid to the
11 board (i) within 5 years from the date of the transfer of
12 contributions under Section 3-110.7 or 7-139.9 and (ii)
13 before the police officer terminates service with the
14 fund. The additional contribution may be paid in a lump
15 sum or in accordance with a schedule of installment
16 payments authorized by the board.

17 (4) If the police officer dies in service before
18 payment in full has been made and before the expiration of
19 the 5-year payment period, the surviving spouse of the
20 officer may elect to pay the unpaid amount on the
21 officer's behalf within 6 months after the date of death,
22 in which case the creditable service shall be granted as
23 though the deceased police officer had paid the remaining
24 balance on the day before the date of death.

25 (5) If the additional contribution that is required or
26 elected under paragraph (2) of this subsection (d) is not

1 paid in full within the required time, the creditable
2 service shall not be granted and the police officer (or
3 the officer's surviving spouse or estate) shall be
4 entitled to receive a refund of (i) any partial payment of
5 the additional contribution that has been made by the
6 police officer and (ii) those portions of the amounts
7 transferred under subdivision (a) (1) of Section 3-110.7 or
8 subdivisions (a) (1) and (a) (3) of Section 7-139.9 that
9 represent employee contributions paid by the police
10 officer (but not the accumulated interest on those
11 contributions) and interest paid by the police officer to
12 the prior pension fund in order to reinstate service
13 terminated by acceptance of a refund.

14 At the time of paying a refund under this item (5), the
15 pension fund shall also repay to the pension fund from
16 which the contributions were transferred under Section
17 3-110.7 or 7-139.9 the amount originally transferred under
18 subdivision (a) (2) of that Section, plus interest at the
19 rate of 6% per year, compounded annually, from the date of
20 the original transfer to the date of repayment. Amounts
21 repaid to the Article 7 fund under this provision shall be
22 credited to the appropriate municipality.

23 Transferred credit that is not granted due to failure
24 to pay the additional contribution within the required
25 time is lost; it may not be transferred to another pension
26 fund and may not be reinstated in the pension fund from

1 which it was transferred.

2 (6) The Public ~~Employee~~ Pension ~~Fund~~ Division of the
3 Department of Insurance shall establish by rule the manner
4 of making the calculation required under paragraph (2) of
5 this subsection, taking into account the appropriate
6 actuarial assumptions; the police officer's service, age,
7 and salary history; the level of funding of the pension
8 fund to which the credits are being transferred; and any
9 other factors that the Division determines to be relevant.
10 The rules may require that all calculations made under
11 paragraph (2) be reported to the Division by the board
12 performing the calculation, together with documentation of
13 the creditable service to be transferred, the amounts of
14 contributions and interest to be transferred, the manner
15 in which the calculation was performed, the numbers relied
16 upon in making the calculation, the results of the
17 calculation, and any other information the Division may
18 deem useful.

19 (e)(1) Creditable service also includes periods of
20 service originally established in the Fund established
21 under Article 7 of this Code for which the contributions
22 have been transferred under Section 7-139.11.

23 (2) If the board of the pension fund to which
24 creditable service and related contributions are
25 transferred under Section 7-139.11 determines that the
26 amount transferred is less than the true cost to the

1 pension fund of allowing that creditable service to be
2 established, then the amount of creditable service the
3 police officer may establish under this subsection (e)
4 shall be reduced by an amount equal to the difference, as
5 determined by the board in accordance with the rules and
6 procedures adopted under paragraph (3) of this subsection.

7 (3) The Public Pension Division of the Department of
8 Insurance ~~Financial and Professional Regulation~~ shall
9 establish by rule the manner of making the calculation
10 required under paragraph (2) of this subsection, taking
11 into account the appropriate actuarial assumptions; the
12 police officer's service, age, and salary history; the
13 level of funding of the pension fund to which the credits
14 are being transferred; and any other factors that the
15 Division determines to be relevant. The rules may require
16 that all calculations made under paragraph (2) be reported
17 to the Division by the board performing the calculation,
18 together with documentation of the creditable service to
19 be transferred, the amounts of contributions and interest
20 to be transferred, the manner in which the calculation was
21 performed, the numbers relied upon in making the
22 calculation, the results of the calculation, and any other
23 information the Division may deem useful.

24 (4) Until January 1, 2010, a police officer who
25 transferred service from the Fund established under
26 Article 7 of this Code under the provisions of Public Act

1 94-356 may establish additional credit, but only for the
2 amount of the service credit reduction in that transfer,
3 as calculated under paragraph (3) of this subsection (e).
4 This credit may be established upon payment by the police
5 officer of an amount to be determined by the board, equal
6 to (1) the amount that would have been contributed as
7 employee and employer contributions had all of the service
8 been as an employee under this Article, plus interest
9 thereon at the rate of 6% per year, compounded annually
10 from the date of service to the date of transfer, less (2)
11 the total amount transferred from the Article 7 Fund, plus
12 (3) interest on the difference at the rate of 6% per year,
13 compounded annually, from the date of the transfer to the
14 date of payment. The additional service credit is allowed
15 under this amendatory Act of the 95th General Assembly
16 notwithstanding the provisions of Article 7 terminating
17 all transferred credits on the date of transfer.

18 (Source: P.A. 96-297, eff. 8-11-09; 96-1260, eff. 7-23-10;
19 97-651, eff. 1-5-12.)

20 (40 ILCS 5/4-108) (from Ch. 108 1/2, par. 4-108)

21 Sec. 4-108. Creditable service.

22 (a) Creditable service is the time served as a firefighter
23 of a municipality. In computing creditable service, furloughs
24 and leaves of absence without pay exceeding 30 days in any one
25 year shall not be counted, but leaves of absence for illness or

1 accident regardless of length, and periods of disability for
2 which a firefighter received no disability pension payments
3 under this Article, shall be counted.

4 (b) Furloughs and leaves of absence of 30 days or less in
5 any one year may be counted as creditable service, if the
6 firefighter makes the contribution to the fund that would have
7 been required had he or she not been on furlough or leave of
8 absence. To qualify for this creditable service, the
9 firefighter must pay the required contributions to the fund
10 not more than 90 days subsequent to the termination of the
11 furlough or leave of absence, to the extent that the
12 municipality has not made such contribution on his or her
13 behalf.

14 (c) Creditable service includes:

15 (1) Service in the military, naval or air forces of
16 the United States entered upon when the person was an
17 active firefighter, provided that, upon applying for a
18 permanent pension, and in accordance with the rules of the
19 board the firefighter pays into the fund the amount that
20 would have been contributed had he or she been a regular
21 contributor during such period of service, if and to the
22 extent that the municipality which the firefighter served
23 made no such contributions in his or her behalf. The total
24 amount of such creditable service shall not exceed 5
25 years, except that any firefighter who on July 1, 1973 had
26 more than 5 years of such creditable service shall receive

1 the total amount thereof as of that date.

2 (1.5) Up to 24 months of service in the military,
3 naval, or air forces of the United States that was served
4 prior to employment by a municipality or fire protection
5 district as a firefighter. To receive the credit for the
6 military service prior to the employment as a firefighter,
7 the firefighter must apply in writing to the fund and must
8 make contributions to the fund equal to (i) the employee
9 contributions that would have been required had the
10 service been rendered as a member, plus (ii) an amount
11 determined by the fund to be equal to the employer's
12 normal cost of the benefits accrued for that military
13 service, plus (iii) interest at the actuarially assumed
14 rate provided by the Public Pension Division of the
15 Department of Insurance ~~Financial and Professional~~
16 ~~Regulation~~, compounded annually from the first date of
17 membership in the fund to the date of payment on items (i)
18 and (ii). The changes to this paragraph (1.5) by this
19 amendatory Act of the 95th General Assembly apply only to
20 participating employees in service on or after its
21 effective date.

22 (2) Service prior to July 1, 1976 by a firefighter
23 initially excluded from participation by reason of age who
24 elected to participate and paid the required contributions
25 for such service.

26 (3) Up to 8 years of service by a firefighter as an

1 officer in a statewide firefighters' association when he
2 is on a leave of absence from a municipality's payroll,
3 provided that (i) the firefighter has at least 10 years of
4 creditable service as an active firefighter, (ii) the
5 firefighter contributes to the fund the amount that he
6 would have contributed had he remained an active member of
7 the fund, (iii) the employee or statewide firefighter
8 association contributes to the fund an amount equal to the
9 employer's required contribution as determined by the
10 board, and (iv) for all leaves of absence under this
11 subdivision (3), including those beginning before the
12 effective date of this amendatory Act of the 97th General
13 Assembly, the firefighter continues to remain in sworn
14 status, subject to the professional standards of the
15 public employer or those terms established in statute.

16 (4) Time spent as an on-call fireman for a
17 municipality, calculated at the rate of one year of
18 creditable service for each 5 years of time spent as an
19 on-call fireman, provided that (i) the firefighter has at
20 least 18 years of creditable service as an active
21 firefighter, (ii) the firefighter spent at least 14 years
22 as an on-call firefighter for the municipality, (iii) the
23 firefighter applies for such creditable service within 30
24 days after the effective date of this amendatory Act of
25 1989, (iv) the firefighter contributes to the Fund an
26 amount representing employee contributions for the number

1 of years of creditable service granted under this
2 subdivision (4), based on the salary and contribution rate
3 in effect for the firefighter at the date of entry into the
4 Fund, to be determined by the board, and (v) not more than
5 3 years of creditable service may be granted under this
6 subdivision (4).

7 Except as provided in Section 4-108.5, creditable
8 service shall not include time spent as a volunteer
9 firefighter, whether or not any compensation was received
10 therefor. The change made in this Section by Public Act
11 83-0463 is intended to be a restatement and clarification
12 of existing law, and does not imply that creditable
13 service was previously allowed under this Article for time
14 spent as a volunteer firefighter.

15 (5) Time served between July 1, 1976 and July 1, 1988
16 in the position of protective inspection officer or
17 administrative assistant for fire services, for a
18 municipality with a population under 10,000 that is
19 located in a county with a population over 3,000,000 and
20 that maintains a firefighters' pension fund under this
21 Article, if the position included firefighting duties,
22 notwithstanding that the person may not have held an
23 appointment as a firefighter, provided that application is
24 made to the pension fund within 30 days after the
25 effective date of this amendatory Act of 1991, and the
26 corresponding contributions are paid for the number of

1 years of service granted, based upon the salary and
2 contribution rate in effect for the firefighter at the
3 date of entry into the pension fund, as determined by the
4 Board.

5 (6) Service before becoming a participant by a
6 firefighter initially excluded from participation by
7 reason of age who becomes a participant under the
8 amendment to Section 4-107 made by this amendatory Act of
9 1993 and pays the required contributions for such service.

10 (7) Up to 3 years of time during which the firefighter
11 receives a disability pension under Section 4-110,
12 4-110.1, or 4-111, provided that (i) the firefighter
13 returns to active service after the disability for a
14 period at least equal to the period for which credit is to
15 be established and (ii) the firefighter makes
16 contributions to the fund based on the rates specified in
17 Section 4-118.1 and the salary upon which the disability
18 pension is based. These contributions may be paid at any
19 time prior to the commencement of a retirement pension.
20 The firefighter may, but need not, elect to have the
21 contributions deducted from the disability pension or to
22 pay them in installments on a schedule approved by the
23 board. If not deducted from the disability pension, the
24 contributions shall include interest at the rate of 6% per
25 year, compounded annually, from the date for which service
26 credit is being established to the date of payment. If

1 contributions are paid under this subdivision (c)(7) in
2 excess of those needed to establish the credit, the excess
3 shall be refunded. This subdivision (c)(7) applies to
4 persons receiving a disability pension under Section
5 4-110, 4-110.1, or 4-111 on the effective date of this
6 amendatory Act of the 91st General Assembly, as well as
7 persons who begin to receive such a disability pension
8 after that date.

9 (8) Up to 6 years of service as a police officer and
10 participant in an Article 3 police pension fund
11 administered by the unit of local government that employs
12 the firefighter under this Article, provided that the
13 service has been transferred to, and the required payment
14 received by, the Article 4 fund in accordance with
15 subsection (a) of Section 3-110.12 of this Code.

16 (9) Up to 8 years of service as a police officer and
17 participant in an Article 3 police pension fund
18 administered by a unit of local government, provided that
19 the service has been transferred to, and the required
20 payment received by, the Article 4 fund in accordance with
21 subsection (a-5) of Section 3-110.12 of this Code.

22 (Source: P.A. 102-63, eff. 7-9-21.)

23 (40 ILCS 5/4-109.3)

24 Sec. 4-109.3. Employee creditable service.

25 (a) As used in this Section:

1 "Final monthly salary" means the monthly salary attached
2 to the rank held by the firefighter at the time of his or her
3 last withdrawal from service under a particular pension fund.

4 "Last pension fund" means the pension fund in which the
5 firefighter was participating at the time of his or her last
6 withdrawal from service.

7 (b) The benefits provided under this Section are available
8 only to a firefighter who:

9 (1) is a firefighter at the time of withdrawal from
10 the last pension fund and for at least the final 3 years of
11 employment prior to that withdrawal;

12 (2) has established service credit with at least one
13 pension fund established under this Article other than the
14 last pension fund;

15 (3) has a total of at least 20 years of service under
16 the various pension funds established under this Article
17 and has attained age 50; and

18 (4) is in service on or after the effective date of
19 this amendatory Act of the 93rd General Assembly.

20 (c) A firefighter who is eligible for benefits under this
21 Section may elect to receive a retirement pension from each
22 pension fund under this Article in which the firefighter has
23 at least one year of service credit but has not received a
24 refund under Section 4-116 (unless the firefighter repays that
25 refund under subsection (g)) or subsection (c) of Section
26 4-118.1, by applying in writing and paying the contribution

1 required under subsection (i).

2 (d) From each such pension fund other than the last
3 pension fund, in lieu of any retirement pension otherwise
4 payable under this Article, a firefighter to whom this Section
5 applies may elect to receive a monthly pension of 1/12th of
6 2.5% of his or her final monthly salary under that fund for
7 each month of service in that fund, subject to a maximum of 75%
8 of that final monthly salary.

9 (e) From the last pension fund, in lieu of any retirement
10 pension otherwise payable under this Article, a firefighter to
11 whom this Section applies may elect to receive a monthly
12 pension calculated as follows:

13 The last pension fund shall calculate the retirement
14 pension that would be payable to the firefighter under Section
15 4-109 as if he or she had participated in that last pension
16 fund during his or her entire period of service under all
17 pension funds established under this Article (excluding any
18 period of service for which the firefighter has received a
19 refund under Section 4-116, unless the firefighter repays that
20 refund under subsection (g), or for which the firefighter has
21 received a refund under subsection (c) of Section 4-118.1).
22 From this hypothetical pension there shall be subtracted the
23 original amounts of the retirement pensions payable to the
24 firefighter by all other pension funds under subsection (d).
25 The remainder is the retirement pension payable to the
26 firefighter by the last pension fund under this subsection

1 (e).

2 (f) Pensions elected under this Section shall be subject
3 to increases as provided in Section 4-109.1.

4 (g) A current firefighter may reinstate creditable service
5 in a pension fund established under this Article that was
6 terminated upon receipt of a refund, by payment to that
7 pension fund of the amount of the refund together with
8 interest thereon at the rate of 6% per year, compounded
9 annually, from the date of the refund to the date of payment. A
10 repayment of a refund under this Section may be made in equal
11 installments over a period of up to 10 years, but must be paid
12 in full prior to retirement.

13 (h) As a condition of being eligible for the benefits
14 provided in this Section, a person who is hired to a position
15 as a firefighter on or after July 1, 2004 must, within 21
16 months after being hired, notify the new employer, all of his
17 or her previous employers under this Article, and the Public
18 Pension Division of the Department ~~Division~~ of Insurance ~~of~~
19 ~~the Department of Financial and Professional Regulation~~ of his
20 or her intent to receive the benefits provided under this
21 Section.

22 As a condition of being eligible for the benefits provided
23 in this Section, a person who first becomes a firefighter
24 under this Article after December 31, 2010 must (1) within 21
25 months after being hired or within 21 months after the
26 effective date of this amendatory Act of the 102nd General

1 Assembly, whichever is later, notify the new employer, all of
2 his or her previous employers under this Article, and the
3 Public Pension Division of the Department of Insurance of his
4 or her intent to receive the benefits provided under this
5 Section; and (2) make the required contributions with
6 applicable interest. A person who first becomes a firefighter
7 under this Article after December 31, 2010 and who, before the
8 effective date of this amendatory Act of the 102nd General
9 Assembly, notified the new employer, all of his or her
10 previous employers under this Article, and the Public Pension
11 Division of the Department of Insurance of his or her intent to
12 receive the benefits provided under this Section shall be
13 deemed to have met the notice requirement under item (1) of the
14 preceding sentence. The changes made to this Section by this
15 amendatory Act of the 102nd General Assembly apply
16 retroactively, notwithstanding Section 1-103.1.

17 (i) In order to receive a pension under this Section or an
18 occupational disease disability pension for which he or she
19 becomes eligible due to the application of subsection (m) of
20 this Section, a firefighter must pay to each pension fund from
21 which he or she has elected to receive a pension under this
22 Section a contribution equal to 1% of monthly salary for each
23 month of service credit that the firefighter has in that fund
24 (other than service credit for which the firefighter has
25 already paid the additional contribution required under
26 subsection (c) of Section 4-118.1), together with interest

1 thereon at the rate of 6% per annum, compounded annually, from
2 the firefighter's first day of employment with that fund or
3 the first day of the fiscal year of that fund that immediately
4 precedes the firefighter's first day of employment with that
5 fund, whichever is earlier.

6 In order for a firefighter who, as of the effective date of
7 this amendatory Act of the 93rd General Assembly, has not
8 begun to receive a pension under this Section or an
9 occupational disease disability pension under subsection (m)
10 of this Section and who has contributed 1/12th of 1% of monthly
11 salary for each month of service credit that the firefighter
12 has in that fund (other than service credit for which the
13 firefighter has already paid the additional contribution
14 required under subsection (c) of Section 4-118.1), together
15 with the required interest thereon, to receive a pension under
16 this Section or an occupational disease disability pension for
17 which he or she becomes eligible due to the application of
18 subsection (m) of this Section, the firefighter must, within
19 one year after the effective date of this amendatory Act of the
20 93rd General Assembly, make an additional contribution equal
21 to 11/12ths of 1% of monthly salary for each month of service
22 credit that the firefighter has in that fund (other than
23 service credit for which the firefighter has already paid the
24 additional contribution required under subsection (c) of
25 Section 4-118.1), together with interest thereon at the rate
26 of 6% per annum, compounded annually, from the firefighter's

1 first day of employment with that fund or the first day of the
2 fiscal year of that fund that immediately precedes the
3 firefighter's first day of employment with the fund, whichever
4 is earlier. A firefighter who, as of the effective date of this
5 amendatory Act of the 93rd General Assembly, has not begun to
6 receive a pension under this Section or an occupational
7 disease disability pension under subsection (m) of this
8 Section and who has contributed 1/12th of 1% of monthly salary
9 for each month of service credit that the firefighter has in
10 that fund (other than service credit for which the firefighter
11 has already paid the additional contribution required under
12 subsection (c) of Section 4-118.1), together with the required
13 interest thereon, in order to receive a pension under this
14 Section or an occupational disease disability pension under
15 subsection (m) of this Section, may elect, within one year
16 after the effective date of this amendatory Act of the 93rd
17 General Assembly to forfeit the benefits provided under this
18 Section and receive a refund of that contribution.

19 (j) A retired firefighter who is receiving pension
20 payments under Section 4-109 may reenter active service under
21 this Article. Subject to the provisions of Section 4-117, the
22 firefighter may receive credit for service performed after the
23 reentry if the firefighter (1) applies to receive credit for
24 that service, (2) suspends his or her pensions under this
25 Section, and (3) makes the contributions required under
26 subsection (i).

1 (k) A firefighter who is newly hired or promoted to a
2 position as a firefighter shall not be denied participation in
3 a fund under this Article based on his or her age.

4 (l) If a firefighter who elects to make contributions
5 under subsection (c) of Section 4-118.1 for the pension
6 benefits provided under this Section becomes entitled to a
7 disability pension under Section 4-110, the last pension fund
8 is responsible to pay that disability pension and the amount
9 of that disability pension shall be based only on the
10 firefighter's service with the last pension fund.

11 (m) Notwithstanding any provision in Section 4-110.1 to
12 the contrary, if a firefighter who elects to make
13 contributions under subsection (c) of Section 4-118.1 for the
14 pension benefits provided under this Section becomes entitled
15 to an occupational disease disability pension under Section
16 4-110.1, each pension fund to which the firefighter has made
17 contributions under subsection (c) of Section 4-118.1 must pay
18 a portion of that occupational disease disability pension
19 equal to the proportion that the firefighter's service credit
20 with that pension fund for which the contributions under
21 subsection (c) of Section 4-118.1 have been made bears to the
22 firefighter's total service credit with all of the pension
23 funds for which the contributions under subsection (c) of
24 Section 4-118.1 have been made. A firefighter who has made
25 contributions under subsection (c) of Section 4-118.1 for at
26 least 5 years of creditable service shall be deemed to have met

1 the 5-year creditable service requirement under Section
2 4-110.1, regardless of whether the firefighter has 5 years of
3 creditable service with the last pension fund.

4 (n) If a firefighter who elects to make contributions
5 under subsection (c) of Section 4-118.1 for the pension
6 benefits provided under this Section becomes entitled to a
7 disability pension under Section 4-111, the last pension fund
8 is responsible to pay that disability pension, provided that
9 the firefighter has at least 7 years of creditable service
10 with the last pension fund. In the event a firefighter began
11 employment with a new employer as a result of an
12 intergovernmental agreement that resulted in the elimination
13 of the previous employer's fire department, the firefighter
14 shall not be required to have 7 years of creditable service
15 with the last pension fund to qualify for a disability pension
16 under Section 4-111. Under this circumstance, a firefighter
17 shall be required to have 7 years of total combined creditable
18 service time to qualify for a disability pension under Section
19 4-111. The disability pension received pursuant to this
20 Section shall be paid by the previous employer and new
21 employer in proportion to the firefighter's years of service
22 with each employer.

23 (Source: P.A. 102-81, eff. 7-9-21.)

24 (40 ILCS 5/18-169)

25 Sec. 18-169. Application and expiration of new benefit

1 increases.

2 (a) As used in this Section, "new benefit increase" means
3 an increase in the amount of any benefit provided under this
4 Article, or an expansion of the conditions of eligibility for
5 any benefit under this Article, that results from an amendment
6 to this Code that takes effect after the effective date of this
7 amendatory Act of the 94th General Assembly.

8 (b) Notwithstanding any other provision of this Code or
9 any subsequent amendment to this Code, every new benefit
10 increase is subject to this Section and shall be deemed to be
11 granted only in conformance with and contingent upon
12 compliance with the provisions of this Section.

13 (c) The Public Act enacting a new benefit increase must
14 identify and provide for payment to the System of additional
15 funding at least sufficient to fund the resulting annual
16 increase in cost to the System as it accrues.

17 Every new benefit increase is contingent upon the General
18 Assembly providing the additional funding required under this
19 subsection. The Commission on Government Forecasting and
20 Accountability shall analyze whether adequate additional
21 funding has been provided for the new benefit increase and
22 shall report its analysis to the Public Pension Division of
23 the Department of Insurance ~~Financial and Professional~~
24 ~~Regulation~~. A new benefit increase created by a Public Act
25 that does not include the additional funding required under
26 this subsection is null and void. If the Public Pension

1 Division determines that the additional funding provided for a
2 new benefit increase under this subsection is or has become
3 inadequate, it may so certify to the Governor and the State
4 Comptroller and, in the absence of corrective action by the
5 General Assembly, the new benefit increase shall expire at the
6 end of the fiscal year in which the certification is made.

7 (d) Every new benefit increase shall expire 5 years after
8 its effective date or on such earlier date as may be specified
9 in the language enacting the new benefit increase or provided
10 under subsection (c). This does not prevent the General
11 Assembly from extending or re-creating a new benefit increase
12 by law.

13 (e) Except as otherwise provided in the language creating
14 the new benefit increase, a new benefit increase that expires
15 under this Section continues to apply to persons who applied
16 and qualified for the affected benefit while the new benefit
17 increase was in effect and to the affected beneficiaries and
18 alternate payees of such persons, but does not apply to any
19 other person, including without limitation a person who
20 continues in service after the expiration date and did not
21 apply and qualify for the affected benefit while the new
22 benefit increase was in effect.

23 (Source: P.A. 94-4, eff. 6-1-05.)

24 (40 ILCS 5/22-1004)

25 Sec. 22-1004. Commission on Government Forecasting and

1 Accountability report on Articles 3 and 4 funds. Each odd
2 numbered year, the Commission on Government Forecasting and
3 Accountability shall analyze data submitted by the Public
4 Pension Division of the ~~Illinois~~ Department of Insurance
5 ~~Financial and Professional Regulation~~ pertaining to the
6 pension systems established under Article 3 and Article 4 of
7 this Code. The Commission shall issue a formal report during
8 such years, the content of which is, to the extent
9 practicable, to be similar in nature to that required under
10 Section 22-1003. In addition to providing aggregate analyses
11 of both systems, the report shall analyze the fiscal status
12 and provide forecasting projections for selected individual
13 funds in each system. To the fullest extent practicable, the
14 report shall analyze factors that affect each selected
15 individual fund's unfunded liability and any actuarial gains
16 and losses caused by salary increases, investment returns,
17 employer contributions, benefit increases, change in
18 assumptions, the difference in employer contributions and the
19 normal cost plus interest, and any other applicable factors.
20 In analyzing net investment returns, the report shall analyze
21 the assumed investment return compared to the actual
22 investment return over the preceding 10 fiscal years. The
23 Public Pension Division of the Department of Insurance
24 ~~Financial and Professional Regulation~~ shall provide to the
25 Commission any assistance that the Commission may request with
26 respect to its report under this Section.

1 (Source: P.A. 95-950, eff. 8-29-08.)

2 Section 10. The Illinois Insurance Code is amended by
3 changing Sections 143.20a, 155.18, 155.19, 155.36, 370c, 412,
4 500-140, and 1204 as follows:

5 (215 ILCS 5/143.20a) (from Ch. 73, par. 755.20a)

6 Sec. 143.20a. Cancellation of Fire and Marine Policies.

7 (1) Policies covering property, except policies described in
8 subsection (b) of Section 143.13 ~~143.13b~~, of this Code, issued
9 for the kinds of business enumerated in Class 3 of Section 4 of
10 this Code may be cancelled 10 days following receipt of
11 written notice by the named insureds if the insured property
12 is found to consist of one or more of the following:

13 (a) Buildings to which, following a fire loss, permanent
14 repairs have not commenced within 60 days after satisfactory
15 adjustment of loss, unless such delay is a direct result of a
16 labor dispute or weather conditions.

17 (b) Buildings which have been unoccupied 60 consecutive
18 days, except buildings which have a seasonal occupancy and
19 buildings which are undergoing construction, repair or
20 reconstruction and are properly secured against unauthorized
21 entry.

22 (c) Buildings on which, because of their physical
23 condition, there is an outstanding order to vacate, an
24 outstanding demolition order, or which have been declared

1 unsafe in accordance with applicable law.

2 (d) Buildings on which heat, water, sewer service or
3 public lighting have not been connected for 30 consecutive
4 days or more.

5 (2) All notices of cancellation under this Section shall
6 be sent by certified mail and regular mail to the address of
7 record of the named insureds.

8 (3) All cancellations made pursuant to this Section shall
9 be on a pro rata basis.

10 (Source: P.A. 86-437.)

11 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

12 (Text of Section WITHOUT the changes made by P.A. 94-677,
13 which has been held unconstitutional)

14 Sec. 155.18. (a) This Section shall apply to insurance on
15 risks based upon negligence by a physician, hospital or other
16 health care provider, referred to herein as medical liability
17 insurance. This Section shall not apply to contracts of
18 reinsurance, nor to any farm, county, district or township
19 mutual insurance company transacting business under an Act
20 entitled "An Act relating to local mutual district, county and
21 township insurance companies", approved March 13, 1936, as now
22 or hereafter amended, nor to any such company operating under
23 a special charter.

24 (b) The following standards shall apply to the making and
25 use of rates pertaining to all classes of medical liability

1 insurance:

2 (1) Rates shall not be excessive or inadequate, as
3 herein defined, nor shall they be unfairly discriminatory.
4 No rate shall be held to be excessive unless such rate is
5 unreasonably high for the insurance provided, and a
6 reasonable degree of competition does not exist in the
7 area with respect to the classification to which such rate
8 is applicable.

9 No rate shall be held inadequate unless it is
10 unreasonably low for the insurance provided and continued
11 use of it would endanger solvency of the company.

12 (2) Consideration shall be given, to the extent
13 applicable, to past and prospective loss experience within
14 and outside this State, to a reasonable margin for
15 underwriting profit and contingencies, to past and
16 prospective expenses both countrywide and those especially
17 applicable to this State, and to all other factors,
18 including judgment factors, deemed relevant within and
19 outside this State.

20 Consideration may also be given in the making and use
21 of rates to dividends, savings or unabsorbed premium
22 deposits allowed or returned by companies to their
23 policyholders, members or subscribers.

24 (3) The systems of expense provisions included in the
25 rates for use by any company or group of companies may
26 differ from those of other companies or groups of

1 companies to reflect the operating methods of any such
2 company or group with respect to any kind of insurance, or
3 with respect to any subdivision or combination thereof.

4 (4) Risks may be grouped by classifications for the
5 establishment of rates and minimum premiums.
6 Classification rates may be modified to produce rates for
7 individual risks in accordance with rating plans which
8 establish standards for measuring variations in hazards or
9 expense provisions, or both. Such standards may measure
10 any difference among risks that have a probable effect
11 upon losses or expenses. Such classifications or
12 modifications of classifications of risks may be
13 established based upon size, expense, management,
14 individual experience, location or dispersion of hazard,
15 or any other reasonable considerations and shall apply to
16 all risks under the same or substantially the same
17 circumstances or conditions. The rate for an established
18 classification should be related generally to the
19 anticipated loss and expense factors of the class.

20 (c) Every company writing medical liability insurance
21 shall file with the Director of Insurance the rates and rating
22 schedules it uses for medical liability insurance.

23 (1) This filing shall occur at least annually and as
24 often as the rates are changed or amended.

25 (2) For the purposes of this Section any change in
26 premium to the company's insureds as a result of a change

1 in the company's base rates or a change in its increased
2 limits factors shall constitute a change in rates and
3 shall require a filing with the Director.

4 (3) It shall be certified in such filing by an officer of
5 the company and a qualified actuary that the company's rates
6 are based on sound actuarial principles and are not
7 inconsistent with the company's experience.

8 (d) If after a hearing the Director finds:

9 (1) that any rate, rating plan or rating system
10 violates the provisions of this Section applicable to it,
11 he may issue an order to the company which has been the
12 subject of the hearing specifying in what respects such
13 violation exists and stating when, within a reasonable
14 period of time, the further use of such rate or rating
15 system by such company in contracts of insurance made
16 thereafter shall be prohibited;

17 (2) that the violation of any of the provisions of
18 this Section applicable to it by any company which has
19 been the subject of hearing was wilful, he may suspend or
20 revoke, in whole or in part, the certificate of authority
21 of such company with respect to the class of insurance
22 which has been the subject of the hearing.

23 (Source: P.A. 79-1434.)

24 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

25 (Text of Section WITHOUT the changes made by P.A. 94-677,

1 which has been held unconstitutional)

2 Sec. 155.19. All claims filed after December 31, 1976 with
3 any insurer and all suits filed after December 31, 1976 in any
4 court in this State, alleging liability on the part of any
5 physician, hospital or other health care provider for
6 medically related injuries, shall be reported to the Director
7 of Insurance in such form and under such terms and conditions
8 as may be prescribed by the Director. The Director shall
9 maintain complete and accurate records of all such claims and
10 suits including their nature, amount, disposition and other
11 information as he may deem useful or desirable in observing
12 and reporting on health care provider liability trends in this
13 State. The Director shall release to appropriate disciplinary
14 and licensing agencies any such data or information which may
15 assist such agencies in improving the quality of health care
16 or which may be useful to such agencies for the purpose of
17 professional discipline.

18 With due regard for appropriate maintenance of the
19 confidentiality thereof, the Director may release from time to
20 time to the Governor, the General Assembly and the general
21 public statistical reports based on such data and information.

22 The Director may promulgate such rules and regulations as
23 may be necessary to carry out the provisions of this Section.

24 (Source: P.A. 79-1434.)

25 (215 ILCS 5/155.36)

1 Sec. 155.36. Managed Care Reform and Patient Rights Act.
2 Insurance companies that transact the kinds of insurance
3 authorized under Class 1(b) or Class 2(a) of Section 4 of this
4 Code shall comply with Sections 25, 45, 45.1, 45.2, 45.3, 65,
5 70, and 85, subsection (d) of Section 30, and the definition of
6 the term "emergency medical condition" in Section 10 of the
7 Managed Care Reform and Patient Rights Act.

8 (Source: P.A. 101-608, eff. 1-1-20; 102-409, eff. 1-1-22.)

9 (215 ILCS 5/370c) (from Ch. 73, par. 982c)

10 Sec. 370c. Mental and emotional disorders.

11 (a) (1) On and after January 1, 2022 (the effective date of
12 Public Act 102-579), every insurer that amends, delivers,
13 issues, or renews group accident and health policies providing
14 coverage for hospital or medical treatment or services for
15 illness on an expense-incurred basis shall provide coverage
16 for the medically necessary treatment of mental, emotional,
17 nervous, or substance use disorders or conditions consistent
18 with the parity requirements of Section 370c.1 of this Code.

19 (2) Each insured that is covered for mental, emotional,
20 nervous, or substance use disorders or conditions shall be
21 free to select the physician licensed to practice medicine in
22 all its branches, licensed clinical psychologist, licensed
23 clinical social worker, licensed clinical professional
24 counselor, licensed marriage and family therapist, licensed
25 speech-language pathologist, or other licensed or certified

1 professional at a program licensed pursuant to the Substance
2 Use Disorder Act of his or her choice to treat such disorders,
3 and the insurer shall pay the covered charges of such
4 physician licensed to practice medicine in all its branches,
5 licensed clinical psychologist, licensed clinical social
6 worker, licensed clinical professional counselor, licensed
7 marriage and family therapist, licensed speech-language
8 pathologist, or other licensed or certified professional at a
9 program licensed pursuant to the Substance Use Disorder Act up
10 to the limits of coverage, provided (i) the disorder or
11 condition treated is covered by the policy, and (ii) the
12 physician, licensed psychologist, licensed clinical social
13 worker, licensed clinical professional counselor, licensed
14 marriage and family therapist, licensed speech-language
15 pathologist, or other licensed or certified professional at a
16 program licensed pursuant to the Substance Use Disorder Act is
17 authorized to provide said services under the statutes of this
18 State and in accordance with accepted principles of his or her
19 profession.

20 (3) Insofar as this Section applies solely to licensed
21 clinical social workers, licensed clinical professional
22 counselors, licensed marriage and family therapists, licensed
23 speech-language pathologists, and other licensed or certified
24 professionals at programs licensed pursuant to the Substance
25 Use Disorder Act, those persons who may provide services to
26 individuals shall do so after the licensed clinical social

1 worker, licensed clinical professional counselor, licensed
2 marriage and family therapist, licensed speech-language
3 pathologist, or other licensed or certified professional at a
4 program licensed pursuant to the Substance Use Disorder Act
5 has informed the patient of the desirability of the patient
6 conferring with the patient's primary care physician.

7 (4) "Mental, emotional, nervous, or substance use disorder
8 or condition" means a condition or disorder that involves a
9 mental health condition or substance use disorder that falls
10 under any of the diagnostic categories listed in the mental
11 and behavioral disorders chapter of the current edition of the
12 World Health Organization's International Classification of
13 Disease or that is listed in the most recent version of the
14 American Psychiatric Association's Diagnostic and Statistical
15 Manual of Mental Disorders. "Mental, emotional, nervous, or
16 substance use disorder or condition" includes any mental
17 health condition that occurs during pregnancy or during the
18 postpartum period and includes, but is not limited to,
19 postpartum depression.

20 (5) Medically necessary treatment and medical necessity
21 determinations shall be interpreted and made in a manner that
22 is consistent with and pursuant to subsections (h) through
23 (t).

24 (b) (1) (Blank).

25 (2) (Blank).

26 (2.5) (Blank).

1 (3) Unless otherwise prohibited by federal law and
2 consistent with the parity requirements of Section 370c.1 of
3 this Code, the reimbursing insurer that amends, delivers,
4 issues, or renews a group or individual policy of accident and
5 health insurance, a qualified health plan offered through the
6 health insurance marketplace, or a provider of treatment of
7 mental, emotional, nervous, or substance use disorders or
8 conditions shall furnish medical records or other necessary
9 data that substantiate that initial or continued treatment is
10 at all times medically necessary. An insurer shall provide a
11 mechanism for the timely review by a provider holding the same
12 license and practicing in the same specialty as the patient's
13 provider, who is unaffiliated with the insurer, jointly
14 selected by the patient (or the patient's next of kin or legal
15 representative if the patient is unable to act for himself or
16 herself), the patient's provider, and the insurer in the event
17 of a dispute between the insurer and patient's provider
18 regarding the medical necessity of a treatment proposed by a
19 patient's provider. If the reviewing provider determines the
20 treatment to be medically necessary, the insurer shall provide
21 reimbursement for the treatment. Future contractual or
22 employment actions by the insurer regarding the patient's
23 provider may not be based on the provider's participation in
24 this procedure. Nothing prevents the insured from agreeing in
25 writing to continue treatment at his or her expense. When
26 making a determination of the medical necessity for a

1 treatment modality for mental, emotional, nervous, or
2 substance use disorders or conditions, an insurer must make
3 the determination in a manner that is consistent with the
4 manner used to make that determination with respect to other
5 diseases or illnesses covered under the policy, including an
6 appeals process. Medical necessity determinations for
7 substance use disorders shall be made in accordance with
8 appropriate patient placement criteria established by the
9 American Society of Addiction Medicine. No additional criteria
10 may be used to make medical necessity determinations for
11 substance use disorders.

12 (4) A group health benefit plan amended, delivered,
13 issued, or renewed on or after January 1, 2019 (the effective
14 date of Public Act 100-1024) or an individual policy of
15 accident and health insurance or a qualified health plan
16 offered through the health insurance marketplace amended,
17 delivered, issued, or renewed on or after January 1, 2019 (the
18 effective date of Public Act 100-1024):

19 (A) shall provide coverage based upon medical
20 necessity for the treatment of a mental, emotional,
21 nervous, or substance use disorder or condition consistent
22 with the parity requirements of Section 370c.1 of this
23 Code; provided, however, that in each calendar year
24 coverage shall not be less than the following:

25 (i) 45 days of inpatient treatment; and

26 (ii) beginning on June 26, 2006 (the effective

1 date of Public Act 94-921), 60 visits for outpatient
2 treatment including group and individual outpatient
3 treatment; and

4 (iii) for plans or policies delivered, issued for
5 delivery, renewed, or modified after January 1, 2007
6 (the effective date of Public Act 94-906), 20
7 additional outpatient visits for speech therapy for
8 treatment of pervasive developmental disorders that
9 will be in addition to speech therapy provided
10 pursuant to item (ii) of this subparagraph (A); and

11 (B) may not include a lifetime limit on the number of
12 days of inpatient treatment or the number of outpatient
13 visits covered under the plan.

14 (C) (Blank).

15 (5) An issuer of a group health benefit plan or an
16 individual policy of accident and health insurance or a
17 qualified health plan offered through the health insurance
18 marketplace may not count toward the number of outpatient
19 visits required to be covered under this Section an outpatient
20 visit for the purpose of medication management and shall cover
21 the outpatient visits under the same terms and conditions as
22 it covers outpatient visits for the treatment of physical
23 illness.

24 (5.5) An individual or group health benefit plan amended,
25 delivered, issued, or renewed on or after September 9, 2015
26 (the effective date of Public Act 99-480) shall offer coverage

1 for medically necessary acute treatment services and medically
2 necessary clinical stabilization services. The treating
3 provider shall base all treatment recommendations and the
4 health benefit plan shall base all medical necessity
5 determinations for substance use disorders in accordance with
6 the most current edition of the Treatment Criteria for
7 Addictive, Substance-Related, and Co-Occurring Conditions
8 established by the American Society of Addiction Medicine. The
9 treating provider shall base all treatment recommendations and
10 the health benefit plan shall base all medical necessity
11 determinations for medication-assisted treatment in accordance
12 with the most current Treatment Criteria for Addictive,
13 Substance-Related, and Co-Occurring Conditions established by
14 the American Society of Addiction Medicine.

15 As used in this subsection:

16 "Acute treatment services" means 24-hour medically
17 supervised addiction treatment that provides evaluation and
18 withdrawal management and may include biopsychosocial
19 assessment, individual and group counseling, psychoeducational
20 groups, and discharge planning.

21 "Clinical stabilization services" means 24-hour treatment,
22 usually following acute treatment services for substance
23 abuse, which may include intensive education and counseling
24 regarding the nature of addiction and its consequences,
25 relapse prevention, outreach to families and significant
26 others, and aftercare planning for individuals beginning to

1 engage in recovery from addiction.

2 (6) An issuer of a group health benefit plan may provide or
3 offer coverage required under this Section through a managed
4 care plan.

5 (6.5) An individual or group health benefit plan amended,
6 delivered, issued, or renewed on or after January 1, 2019 (the
7 effective date of Public Act 100-1024):

8 (A) shall not impose prior authorization requirements,
9 other than those established under the Treatment Criteria
10 for Addictive, Substance-Related, and Co-Occurring
11 Conditions established by the American Society of
12 Addiction Medicine, on a prescription medication approved
13 by the United States Food and Drug Administration that is
14 prescribed or administered for the treatment of substance
15 use disorders;

16 (B) shall not impose any step therapy requirements,
17 other than those established under the Treatment Criteria
18 for Addictive, Substance-Related, and Co-Occurring
19 Conditions established by the American Society of
20 Addiction Medicine, before authorizing coverage for a
21 prescription medication approved by the United States Food
22 and Drug Administration that is prescribed or administered
23 for the treatment of substance use disorders;

24 (C) shall place all prescription medications approved
25 by the United States Food and Drug Administration
26 prescribed or administered for the treatment of substance

1 use disorders on, for brand medications, the lowest tier
2 of the drug formulary developed and maintained by the
3 individual or group health benefit plan that covers brand
4 medications and, for generic medications, the lowest tier
5 of the drug formulary developed and maintained by the
6 individual or group health benefit plan that covers
7 generic medications; and

8 (D) shall not exclude coverage for a prescription
9 medication approved by the United States Food and Drug
10 Administration for the treatment of substance use
11 disorders and any associated counseling or wraparound
12 services on the grounds that such medications and services
13 were court ordered.

14 (7) (Blank).

15 (8) (Blank).

16 (9) With respect to all mental, emotional, nervous, or
17 substance use disorders or conditions, coverage for inpatient
18 treatment shall include coverage for treatment in a
19 residential treatment center certified or licensed by the
20 Department of Public Health or the Department of Human
21 Services.

22 (c) This Section shall not be interpreted to require
23 coverage for speech therapy or other rehabilitative services for
24 those individuals covered under Section 356z.15 of this Code.

25 (d) With respect to a group or individual policy of
26 accident and health insurance or a qualified health plan

1 offered through the health insurance marketplace, the
2 Department and, with respect to medical assistance, the
3 Department of Healthcare and Family Services shall each
4 enforce the requirements of this Section and Sections 356z.23
5 and 370c.1 of this Code, the Paul Wellstone and Pete Domenici
6 Mental Health Parity and Addiction Equity Act of 2008, 42
7 U.S.C. 18031(j), and any amendments to, and federal guidance
8 or regulations issued under, those Acts, including, but not
9 limited to, final regulations issued under the Paul Wellstone
10 and Pete Domenici Mental Health Parity and Addiction Equity
11 Act of 2008 and final regulations applying the Paul Wellstone
12 and Pete Domenici Mental Health Parity and Addiction Equity
13 Act of 2008 to Medicaid managed care organizations, the
14 Children's Health Insurance Program, and alternative benefit
15 plans. Specifically, the Department and the Department of
16 Healthcare and Family Services shall take action:

17 (1) proactively ensuring compliance by individual and
18 group policies, including by requiring that insurers
19 submit comparative analyses, as set forth in paragraph (6)
20 of subsection (k) of Section 370c.1, demonstrating how
21 they design and apply nonquantitative treatment
22 limitations, both as written and in operation, for mental,
23 emotional, nervous, or substance use disorder or condition
24 benefits as compared to how they design and apply
25 nonquantitative treatment limitations, as written and in
26 operation, for medical and surgical benefits;

1 (2) evaluating all consumer or provider complaints
2 regarding mental, emotional, nervous, or substance use
3 disorder or condition coverage for possible parity
4 violations;

5 (3) performing parity compliance market conduct
6 examinations or, in the case of the Department of
7 Healthcare and Family Services, parity compliance audits
8 of individual and group plans and policies, including, but
9 not limited to, reviews of:

10 (A) nonquantitative treatment limitations,
11 including, but not limited to, prior authorization
12 requirements, concurrent review, retrospective review,
13 step therapy, network admission standards,
14 reimbursement rates, and geographic restrictions;

15 (B) denials of authorization, payment, and
16 coverage; and

17 (C) other specific criteria as may be determined
18 by the Department.

19 The findings and the conclusions of the parity compliance
20 market conduct examinations and audits shall be made public.

21 The Director may adopt rules to effectuate any provisions
22 of the Paul Wellstone and Pete Domenici Mental Health Parity
23 and Addiction Equity Act of 2008 that relate to the business of
24 insurance.

25 (e) Availability of plan information.

26 (1) The criteria for medical necessity determinations

1 made under a group health plan, an individual policy of
2 accident and health insurance, or a qualified health plan
3 offered through the health insurance marketplace with
4 respect to mental health or substance use disorder
5 benefits (or health insurance coverage offered in
6 connection with the plan with respect to such benefits)
7 must be made available by the plan administrator (or the
8 health insurance issuer offering such coverage) to any
9 current or potential participant, beneficiary, or
10 contracting provider upon request.

11 (2) The reason for any denial under a group health
12 benefit plan, an individual policy of accident and health
13 insurance, or a qualified health plan offered through the
14 health insurance marketplace (or health insurance coverage
15 offered in connection with such plan or policy) of
16 reimbursement or payment for services with respect to
17 mental, emotional, nervous, or substance use disorders or
18 conditions benefits in the case of any participant or
19 beneficiary must be made available within a reasonable
20 time and in a reasonable manner and in readily
21 understandable language by the plan administrator (or the
22 health insurance issuer offering such coverage) to the
23 participant or beneficiary upon request.

24 (f) As used in this Section, "group policy of accident and
25 health insurance" and "group health benefit plan" includes (1)
26 State-regulated employer-sponsored group health insurance

1 plans written in Illinois or which purport to provide coverage
2 for a resident of this State; and (2) State employee health
3 plans.

4 (g) (1) As used in this subsection:

5 "Benefits", with respect to insurers, means the benefits
6 provided for treatment services for inpatient and outpatient
7 treatment of substance use disorders or conditions at American
8 Society of Addiction Medicine levels of treatment 2.1
9 (Intensive Outpatient), 2.5 (Partial Hospitalization), 3.1
10 (Clinically Managed Low-Intensity Residential), 3.3
11 (Clinically Managed Population-Specific High-Intensity
12 Residential), 3.5 (Clinically Managed High-Intensity
13 Residential), and 3.7 (Medically Monitored Intensive
14 Inpatient) and OMT (Opioid Maintenance Therapy) services.

15 "Benefits", with respect to managed care organizations,
16 means the benefits provided for treatment services for
17 inpatient and outpatient treatment of substance use disorders
18 or conditions at American Society of Addiction Medicine levels
19 of treatment 2.1 (Intensive Outpatient), 2.5 (Partial
20 Hospitalization), 3.5 (Clinically Managed High-Intensity
21 Residential), and 3.7 (Medically Monitored Intensive
22 Inpatient) and OMT (Opioid Maintenance Therapy) services.

23 "Substance use disorder treatment provider or facility"
24 means a licensed physician, licensed psychologist, licensed
25 psychiatrist, licensed advanced practice registered nurse, or
26 licensed, certified, or otherwise State-approved facility or

1 provider of substance use disorder treatment.

2 (2) A group health insurance policy, an individual health
3 benefit plan, or qualified health plan that is offered through
4 the health insurance marketplace, small employer group health
5 plan, and large employer group health plan that is amended,
6 delivered, issued, executed, or renewed in this State, or
7 approved for issuance or renewal in this State, on or after
8 January 1, 2019 (the effective date of Public Act 100-1023)
9 shall comply with the requirements of this Section and Section
10 370c.1. The services for the treatment and the ongoing
11 assessment of the patient's progress in treatment shall follow
12 the requirements of 77 Ill. Adm. Code 2060.

13 (3) Prior authorization shall not be utilized for the
14 benefits under this subsection. The substance use disorder
15 treatment provider or facility shall notify the insurer of the
16 initiation of treatment. For an insurer that is not a managed
17 care organization, the substance use disorder treatment
18 provider or facility notification shall occur for the
19 initiation of treatment of the covered person within 2
20 business days. For managed care organizations, the substance
21 use disorder treatment provider or facility notification shall
22 occur in accordance with the protocol set forth in the
23 provider agreement for initiation of treatment within 24
24 hours. If the managed care organization is not capable of
25 accepting the notification in accordance with the contractual
26 protocol during the 24-hour period following admission, the

1 substance use disorder treatment provider or facility shall
2 have one additional business day to provide the notification
3 to the appropriate managed care organization. Treatment plans
4 shall be developed in accordance with the requirements and
5 timeframes established in 77 Ill. Adm. Code 2060. If the
6 substance use disorder treatment provider or facility fails to
7 notify the insurer of the initiation of treatment in
8 accordance with these provisions, the insurer may follow its
9 normal prior authorization processes.

10 (4) For an insurer that is not a managed care
11 organization, if an insurer determines that benefits are no
12 longer medically necessary, the insurer shall notify the
13 covered person, the covered person's authorized
14 representative, if any, and the covered person's health care
15 provider in writing of the covered person's right to request
16 an external review pursuant to the Health Carrier External
17 Review Act. The notification shall occur within 24 hours
18 following the adverse determination.

19 Pursuant to the requirements of the Health Carrier
20 External Review Act, the covered person or the covered
21 person's authorized representative may request an expedited
22 external review. An expedited external review may not occur if
23 the substance use disorder treatment provider or facility
24 determines that continued treatment is no longer medically
25 necessary. ~~Under this subsection, a request for expedited~~
26 ~~external review must be initiated within 24 hours following~~

1 ~~the adverse determination notification by the insurer. Failure~~
2 ~~to request an expedited external review within 24 hours shall~~
3 ~~preclude a covered person or a covered person's authorized~~
4 ~~representative from requesting an expedited external review.~~

5 If an expedited external review request meets the criteria
6 of the Health Carrier External Review Act, an independent
7 review organization shall make a final determination of
8 medical necessity within 72 hours. If an independent review
9 organization upholds an adverse determination, an insurer
10 shall remain responsible to provide coverage of benefits
11 through the day following the determination of the independent
12 review organization. A decision to reverse an adverse
13 determination shall comply with the Health Carrier External
14 Review Act.

15 (5) The substance use disorder treatment provider or
16 facility shall provide the insurer with 7 business days'
17 advance notice of the planned discharge of the patient from
18 the substance use disorder treatment provider or facility and
19 notice on the day that the patient is discharged from the
20 substance use disorder treatment provider or facility.

21 (6) The benefits required by this subsection shall be
22 provided to all covered persons with a diagnosis of substance
23 use disorder or conditions. The presence of additional related
24 or unrelated diagnoses shall not be a basis to reduce or deny
25 the benefits required by this subsection.

26 (7) Nothing in this subsection shall be construed to

1 require an insurer to provide coverage for any of the benefits
2 in this subsection.

3 (h) As used in this Section:

4 "Generally accepted standards of mental, emotional,
5 nervous, or substance use disorder or condition care" means
6 standards of care and clinical practice that are generally
7 recognized by health care providers practicing in relevant
8 clinical specialties such as psychiatry, psychology, clinical
9 sociology, social work, addiction medicine and counseling, and
10 behavioral health treatment. Valid, evidence-based sources
11 reflecting generally accepted standards of mental, emotional,
12 nervous, or substance use disorder or condition care include
13 peer-reviewed scientific studies and medical literature,
14 recommendations of nonprofit health care provider professional
15 associations and specialty societies, including, but not
16 limited to, patient placement criteria and clinical practice
17 guidelines, recommendations of federal government agencies,
18 and drug labeling approved by the United States Food and Drug
19 Administration.

20 "Medically necessary treatment of mental, emotional,
21 nervous, or substance use disorders or conditions" means a
22 service or product addressing the specific needs of that
23 patient, for the purpose of screening, preventing, diagnosing,
24 managing, or treating an illness, injury, or condition or its
25 symptoms and comorbidities, including minimizing the
26 progression of an illness, injury, or condition or its

1 symptoms and comorbidities in a manner that is all of the
2 following:

3 (1) in accordance with the generally accepted
4 standards of mental, emotional, nervous, or substance use
5 disorder or condition care;

6 (2) clinically appropriate in terms of type,
7 frequency, extent, site, and duration; and

8 (3) not primarily for the economic benefit of the
9 insurer, purchaser, or for the convenience of the patient,
10 treating physician, or other health care provider.

11 "Utilization review" means either of the following:

12 (1) prospectively, retrospectively, or concurrently
13 reviewing and approving, modifying, delaying, or denying,
14 based in whole or in part on medical necessity, requests
15 by health care providers, insureds, or their authorized
16 representatives for coverage of health care services
17 before, retrospectively, or concurrently with the
18 provision of health care services to insureds.

19 (2) evaluating the medical necessity, appropriateness,
20 level of care, service intensity, efficacy, or efficiency
21 of health care services, benefits, procedures, or
22 settings, under any circumstances, to determine whether a
23 health care service or benefit subject to a medical
24 necessity coverage requirement in an insurance policy is
25 covered as medically necessary for an insured.

26 "Utilization review criteria" means patient placement

1 criteria or any criteria, standards, protocols, or guidelines
2 used by an insurer to conduct utilization review.

3 (i)(1) Every insurer that amends, delivers, issues, or
4 renews a group or individual policy of accident and health
5 insurance or a qualified health plan offered through the
6 health insurance marketplace in this State and Medicaid
7 managed care organizations providing coverage for hospital or
8 medical treatment on or after January 1, 2023 shall, pursuant
9 to subsections (h) through (s), provide coverage for medically
10 necessary treatment of mental, emotional, nervous, or
11 substance use disorders or conditions.

12 (2) An insurer shall not set a specific limit on the
13 duration of benefits or coverage of medically necessary
14 treatment of mental, emotional, nervous, or substance use
15 disorders or conditions or limit coverage only to alleviation
16 of the insured's current symptoms.

17 (3) All medical necessity determinations made by the
18 insurer concerning service intensity, level of care placement,
19 continued stay, and transfer or discharge of insureds
20 diagnosed with mental, emotional, nervous, or substance use
21 disorders or conditions shall be conducted in accordance with
22 the requirements of subsections (k) through (u).

23 (4) An insurer that authorizes a specific type of
24 treatment by a provider pursuant to this Section shall not
25 rescind or modify the authorization after that provider
26 renders the health care service in good faith and pursuant to

1 this authorization for any reason, including, but not limited
2 to, the insurer's subsequent cancellation or modification of
3 the insured's or policyholder's contract, or the insured's or
4 policyholder's eligibility. Nothing in this Section shall
5 require the insurer to cover a treatment when the
6 authorization was granted based on a material
7 misrepresentation by the insured, the policyholder, or the
8 provider. Nothing in this Section shall require Medicaid
9 managed care organizations to pay for services if the
10 individual was not eligible for Medicaid at the time the
11 service was rendered. Nothing in this Section shall require an
12 insurer to pay for services if the individual was not the
13 insurer's enrollee at the time services were rendered. As used
14 in this paragraph, "material" means a fact or situation that
15 is not merely technical in nature and results in or could
16 result in a substantial change in the situation.

17 (j) An insurer shall not limit benefits or coverage for
18 medically necessary services on the basis that those services
19 should be or could be covered by a public entitlement program,
20 including, but not limited to, special education or an
21 individualized education program, Medicaid, Medicare,
22 Supplemental Security Income, or Social Security Disability
23 Insurance, and shall not include or enforce a contract term
24 that excludes otherwise covered benefits on the basis that
25 those services should be or could be covered by a public
26 entitlement program. Nothing in this subsection shall be

1 construed to require an insurer to cover benefits that have
2 been authorized and provided for a covered person by a public
3 entitlement program. Medicaid managed care organizations are
4 not subject to this subsection.

5 (k) An insurer shall base any medical necessity
6 determination or the utilization review criteria that the
7 insurer, and any entity acting on the insurer's behalf,
8 applies to determine the medical necessity of health care
9 services and benefits for the diagnosis, prevention, and
10 treatment of mental, emotional, nervous, or substance use
11 disorders or conditions on current generally accepted
12 standards of mental, emotional, nervous, or substance use
13 disorder or condition care. All denials and appeals shall be
14 reviewed by a professional with experience or expertise
15 comparable to the provider requesting the authorization.

16 (l) For medical necessity determinations relating to level
17 of care placement, continued stay, and transfer or discharge
18 of insureds diagnosed with mental, emotional, and nervous
19 disorders or conditions, an insurer shall apply the patient
20 placement criteria set forth in the most recent version of the
21 treatment criteria developed by an unaffiliated nonprofit
22 professional association for the relevant clinical specialty
23 or, for Medicaid managed care organizations, patient placement
24 criteria determined by the Department of Healthcare and Family
25 Services that are consistent with generally accepted standards
26 of mental, emotional, nervous or substance use disorder or

1 condition care. Pursuant to subsection (b), in conducting
2 utilization review of all covered services and benefits for
3 the diagnosis, prevention, and treatment of substance use
4 disorders an insurer shall use the most recent edition of the
5 patient placement criteria established by the American Society
6 of Addiction Medicine.

7 (m) For medical necessity determinations relating to level
8 of care placement, continued stay, and transfer or discharge
9 that are within the scope of the sources specified in
10 subsection (l), an insurer shall not apply different,
11 additional, conflicting, or more restrictive utilization
12 review criteria than the criteria set forth in those sources.
13 For all level of care placement decisions, the insurer shall
14 authorize placement at the level of care consistent with the
15 assessment of the insured using the relevant patient placement
16 criteria as specified in subsection (l). If that level of
17 placement is not available, the insurer shall authorize the
18 next higher level of care. In the event of disagreement, the
19 insurer shall provide full detail of its assessment using the
20 relevant criteria as specified in subsection (l) to the
21 provider of the service and the patient.

22 Nothing in this subsection or subsection (l) prohibits an
23 insurer from applying utilization review criteria that were
24 developed in accordance with subsection (k) to health care
25 services and benefits for mental, emotional, and nervous
26 disorders or conditions that are not related to medical

1 necessity determinations for level of care placement,
2 continued stay, and transfer or discharge. If an insurer
3 purchases or licenses utilization review criteria pursuant to
4 this subsection, the insurer shall verify and document before
5 use that the criteria were developed in accordance with
6 subsection (k).

7 (n) In conducting utilization review that is outside the
8 scope of the criteria as specified in subsection (l) or
9 relates to the advancements in technology or in the types or
10 levels of care that are not addressed in the most recent
11 versions of the sources specified in subsection (l), an
12 insurer shall conduct utilization review in accordance with
13 subsection (k).

14 (o) This Section does not in any way limit the rights of a
15 patient under the Medical Patient Rights Act.

16 (p) This Section does not in any way limit early and
17 periodic screening, diagnostic, and treatment benefits as
18 defined under 42 U.S.C. 1396d(r).

19 (q) To ensure the proper use of the criteria described in
20 subsection (l), every insurer shall do all of the following:

21 (1) Educate the insurer's staff, including any third
22 parties contracted with the insurer to review claims,
23 conduct utilization reviews, or make medical necessity
24 determinations about the utilization review criteria.

25 (2) Make the educational program available to other
26 stakeholders, including the insurer's participating or

1 contracted providers and potential participants,
2 beneficiaries, or covered lives. The education program
3 must be provided at least once a year, in-person or
4 digitally, or recordings of the education program must be
5 made available to the aforementioned stakeholders.

6 (3) Provide, at no cost, the utilization review
7 criteria and any training material or resources to
8 providers and insured patients upon request. For
9 utilization review criteria not concerning level of care
10 placement, continued stay, and transfer or discharge used
11 by the insurer pursuant to subsection (m), the insurer may
12 place the criteria on a secure, password-protected website
13 so long as the access requirements of the website do not
14 unreasonably restrict access to insureds or their
15 providers. No restrictions shall be placed upon the
16 insured's or treating provider's access right to
17 utilization review criteria obtained under this paragraph
18 at any point in time, including before an initial request
19 for authorization.

20 (4) Track, identify, and analyze how the utilization
21 review criteria are used to certify care, deny care, and
22 support the appeals process.

23 (5) Conduct interrater reliability testing to ensure
24 consistency in utilization review decision making that
25 covers how medical necessity decisions are made; this
26 assessment shall cover all aspects of utilization review

1 as defined in subsection (h).

2 (6) Run interrater reliability reports about how the
3 clinical guidelines are used in conjunction with the
4 utilization review process and parity compliance
5 activities.

6 (7) Achieve interrater reliability pass rates of at
7 least 90% and, if this threshold is not met, immediately
8 provide for the remediation of poor interrater reliability
9 and interrater reliability testing for all new staff
10 before they can conduct utilization review without
11 supervision.

12 (8) Maintain documentation of interrater reliability
13 testing and the remediation actions taken for those with
14 pass rates lower than 90% and submit to the Department of
15 Insurance or, in the case of Medicaid managed care
16 organizations, the Department of Healthcare and Family
17 Services the testing results and a summary of remedial
18 actions as part of parity compliance reporting set forth
19 in subsection (k) of Section 370c.1.

20 (r) This Section applies to all health care services and
21 benefits for the diagnosis, prevention, and treatment of
22 mental, emotional, nervous, or substance use disorders or
23 conditions covered by an insurance policy, including
24 prescription drugs.

25 (s) This Section applies to an insurer that amends,
26 delivers, issues, or renews a group or individual policy of

1 accident and health insurance or a qualified health plan
2 offered through the health insurance marketplace in this State
3 providing coverage for hospital or medical treatment and
4 conducts utilization review as defined in this Section,
5 including Medicaid managed care organizations, and any entity
6 or contracting provider that performs utilization review or
7 utilization management functions on an insurer's behalf.

8 (t) If the Director determines that an insurer has
9 violated this Section, the Director may, after appropriate
10 notice and opportunity for hearing, by order, assess a civil
11 penalty between \$1,000 and \$5,000 for each violation. Moneys
12 collected from penalties shall be deposited into the Parity
13 Advancement Fund established in subsection (i) of Section
14 370c.1.

15 (u) An insurer shall not adopt, impose, or enforce terms
16 in its policies or provider agreements, in writing or in
17 operation, that undermine, alter, or conflict with the
18 requirements of this Section.

19 (v) The provisions of this Section are severable. If any
20 provision of this Section or its application is held invalid,
21 that invalidity shall not affect other provisions or
22 applications that can be given effect without the invalid
23 provision or application.

24 (Source: P.A. 101-81, eff. 7-12-19; 101-386, eff. 8-16-19;
25 102-558, eff. 8-20-21; 102-579, eff. 1-1-22; 102-813, eff.
26 5-13-22.)

1 (215 ILCS 5/412) (from Ch. 73, par. 1024)

2 Sec. 412. Refunds; penalties; collection.

3 (1)(a) Whenever it appears to the satisfaction of the
4 Director that because of some mistake of fact, error in
5 calculation, or erroneous interpretation of a statute of this
6 or any other state, any authorized company, surplus line
7 producer, or industrial insured has paid to him, pursuant to
8 any provision of law, taxes, fees, or other charges in excess
9 of the amount legally chargeable against it, during the 6 year
10 period immediately preceding the discovery of such
11 overpayment, he shall have power to refund to such company,
12 surplus line producer, or industrial insured the amount of the
13 excess or excesses by applying the amount or amounts thereof
14 toward the payment of taxes, fees, or other charges already
15 due, or which may thereafter become due from that company
16 until such excess or excesses have been fully refunded, or
17 upon a written request from the authorized company, surplus
18 line producer, or industrial insured, the Director shall
19 provide a cash refund within 120 days after receipt of the
20 written request if all necessary information has been filed
21 with the Department in order for it to perform an audit of the
22 tax report for the transaction or period or annual return for
23 the year in which the overpayment occurred or within 120 days
24 after the date the Department receives all the necessary
25 information to perform such audit. The Director shall not

1 provide a cash refund if there are insufficient funds in the
2 Insurance Premium Tax Refund Fund to provide a cash refund, if
3 the amount of the overpayment is less than \$100, or if the
4 amount of the overpayment can be fully offset against the
5 taxpayer's estimated liability for the year following the year
6 of the cash refund request. Any cash refund shall be paid from
7 the Insurance Premium Tax Refund Fund, a special fund hereby
8 created in the State treasury.

9 (b) As determined by the Director pursuant to paragraph
10 (a) of this subsection, the Department shall deposit an amount
11 of cash refunds approved by the Director for payment as a
12 result of overpayment of tax liability collected under
13 Sections 121-2.08, 409, 444, 444.1, and 445 of this Code into
14 the Insurance Premium Tax Refund Fund.

15 (c) Beginning July 1, 1999, moneys in the Insurance
16 Premium Tax Refund Fund shall be expended exclusively for the
17 purpose of paying cash refunds resulting from overpayment of
18 tax liability under Sections 121-2.08, 409, 444, 444.1, and
19 445 of this Code as determined by the Director pursuant to
20 subsection 1(a) of this Section. Cash refunds made in
21 accordance with this Section may be made from the Insurance
22 Premium Tax Refund Fund only to the extent that amounts have
23 been deposited and retained in the Insurance Premium Tax
24 Refund Fund.

25 (d) This Section shall constitute an irrevocable and
26 continuing appropriation from the Insurance Premium Tax Refund

1 Fund for the purpose of paying cash refunds pursuant to the
2 provisions of this Section.

3 (2)(a) When any insurance company fails to file any tax
4 return required under Sections 408.1, 409, 444, and 444.1 of
5 this Code or Section 12 of the Fire Investigation Act on the
6 date prescribed, including any extensions, there shall be
7 added as a penalty \$400 or 10% of the amount of such tax,
8 whichever is greater, for each month or part of a month of
9 failure to file, the entire penalty not to exceed \$2,000 or 50%
10 of the tax due, whichever is greater.

11 (b) When any industrial insured or surplus line producer
12 fails to file any tax return or report required under Sections
13 121-2.08 and 445 of this Code or Section 12 of the Fire
14 Investigation Act on the date prescribed, including any
15 extensions, there shall be added:

16 (i) as a late fee, if the return or report is received
17 at least one day but not more than 15 ~~7~~ days after the
18 prescribed due date, \$50 ~~\$400~~ or 5% ~~10%~~ of the tax due,
19 whichever is greater, the entire fee not to exceed \$1,000;

20 ~~(ii) as a late fee, if the return or report is received~~
21 ~~at least 8 days but not more than 14 days after the~~
22 ~~prescribed due date, \$400 or 10% of the tax due, whichever~~
23 ~~is greater, the entire fee not to exceed \$1,500;~~

24 (ii) ~~(iii)~~ as a late fee, if the return or report is
25 received at least 16 ~~15~~ days but not more than 30 ~~21~~ days
26 after the prescribed due date, \$100 ~~\$400~~ or 5% ~~10%~~ of the

1 tax due, whichever is greater, the entire fee not to
2 exceed \$2,000; or

3 (iii) ~~(iv)~~ as a penalty, if the return or report is
4 received more than 30 ~~21~~ days after the prescribed due
5 date, \$100 ~~\$400~~ or 5% ~~10%~~ of the tax due, whichever is
6 greater, for each month or part of a month of failure to
7 file, the entire penalty not to exceed \$500 ~~\$2,000~~ or 30%
8 ~~50%~~ of the tax due, whichever is greater.

9 A tax return or report shall be deemed received as of the
10 date mailed as evidenced by a postmark, proof of mailing on a
11 recognized United States Postal Service form or a form
12 acceptable to the United States Postal Service or other
13 commercial mail delivery service, or other evidence acceptable
14 to the Director.

15 (3) (a) When any insurance company fails to pay the full
16 amount due under the provisions of this Section, Sections
17 408.1, 409, 444, or 444.1 of this Code, or Section 12 of the
18 Fire Investigation Act, there shall be added to the amount due
19 as a penalty an amount equal to 10% of the deficiency.

20 (a-5) When any industrial insured or surplus line producer
21 fails to pay the full amount due under the provisions of this
22 Section, Sections 121-2.08 or 445 of this Code, or Section 12
23 of the Fire Investigation Act on the date prescribed, there
24 shall be added:

25 (i) as a late fee, if the payment is received at least
26 one day but not more than 7 days after the prescribed due

1 date, 10% of the tax due, the entire fee not to exceed
2 \$1,000;

3 (ii) as a late fee, if the payment is received at least
4 8 days but not more than 14 days after the prescribed due
5 date, 10% of the tax due, the entire fee not to exceed
6 \$1,500;

7 (iii) as a late fee, if the payment is received at
8 least 15 days but not more than 21 days after the
9 prescribed due date, 10% of the tax due, the entire fee not
10 to exceed \$2,000; or

11 (iv) as a penalty, if the return or report is received
12 more than 21 days after the prescribed due date, 10% of the
13 tax due.

14 A tax payment shall be deemed received as of the date
15 mailed as evidenced by a postmark, proof of mailing on a
16 recognized United States Postal Service form or a form
17 acceptable to the United States Postal Service or other
18 commercial mail delivery service, or other evidence acceptable
19 to the Director.

20 (b) If such failure to pay is determined by the Director to
21 be wilful, after a hearing under Sections 402 and 403, there
22 shall be added to the tax as a penalty an amount equal to the
23 greater of 50% of the deficiency or 10% of the amount due and
24 unpaid for each month or part of a month that the deficiency
25 remains unpaid commencing with the date that the amount
26 becomes due. Such amount shall be in lieu of any determined

1 under paragraph (a) or (a-5).

2 (4) Any insurance company, industrial insured, or surplus
3 line producer that fails to pay the full amount due under this
4 Section or Sections 121-2.08, 408.1, 409, 444, 444.1, or 445
5 of this Code, or Section 12 of the Fire Investigation Act is
6 liable, in addition to the tax and any late fees and penalties,
7 for interest on such deficiency at the rate of 12% per annum,
8 or at such higher adjusted rates as are or may be established
9 under subsection (b) of Section 6621 of the Internal Revenue
10 Code, from the date that payment of any such tax was due,
11 determined without regard to any extensions, to the date of
12 payment of such amount.

13 (5) The Director, through the Attorney General, may
14 institute an action in the name of the People of the State of
15 Illinois, in any court of competent jurisdiction, for the
16 recovery of the amount of such taxes, fees, and penalties due,
17 and prosecute the same to final judgment, and take such steps
18 as are necessary to collect the same.

19 (6) In the event that the certificate of authority of a
20 foreign or alien company is revoked for any cause or the
21 company withdraws from this State prior to the renewal date of
22 the certificate of authority as provided in Section 114, the
23 company may recover the amount of any such tax paid in advance.
24 Except as provided in this subsection, no revocation or
25 withdrawal excuses payment of or constitutes grounds for the
26 recovery of any taxes or penalties imposed by this Code.

1 (7) When an insurance company or domestic affiliated group
2 fails to pay the full amount of any fee of \$200 or more due
3 under Section 408 of this Code, there shall be added to the
4 amount due as a penalty the greater of \$100 or an amount equal
5 to 10% of the deficiency for each month or part of a month that
6 the deficiency remains unpaid.

7 (8) The Department shall have a lien for the taxes, fees,
8 charges, fines, penalties, interest, other charges, or any
9 portion thereof, imposed or assessed pursuant to this Code,
10 upon all the real and personal property of any company or
11 person to whom the assessment or final order has been issued or
12 whenever a tax return is filed without payment of the tax or
13 penalty shown therein to be due, including all such property
14 of the company or person acquired after receipt of the
15 assessment, issuance of the order, or filing of the return.
16 The company or person is liable for the filing fee incurred by
17 the Department for filing the lien and the filing fee incurred
18 by the Department to file the release of that lien. The filing
19 fees shall be paid to the Department in addition to payment of
20 the tax, fee, charge, fine, penalty, interest, other charges,
21 or any portion thereof, included in the amount of the lien.
22 However, where the lien arises because of the issuance of a
23 final order of the Director or tax assessment by the
24 Department, the lien shall not attach and the notice referred
25 to in this Section shall not be filed until all administrative
26 proceedings or proceedings in court for review of the final

1 order or assessment have terminated or the time for the taking
2 thereof has expired without such proceedings being instituted.

3 Upon the granting of Department review after a lien has
4 attached, the lien shall remain in full force except to the
5 extent to which the final assessment may be reduced by a
6 revised final assessment following the rehearing or review.
7 The lien created by the issuance of a final assessment shall
8 terminate, unless a notice of lien is filed, within 3 years
9 after the date all proceedings in court for the review of the
10 final assessment have terminated or the time for the taking
11 thereof has expired without such proceedings being instituted,
12 or (in the case of a revised final assessment issued pursuant
13 to a rehearing or review by the Department) within 3 years
14 after the date all proceedings in court for the review of such
15 revised final assessment have terminated or the time for the
16 taking thereof has expired without such proceedings being
17 instituted. Where the lien results from the filing of a tax
18 return without payment of the tax or penalty shown therein to
19 be due, the lien shall terminate, unless a notice of lien is
20 filed, within 3 years after the date when the return is filed
21 with the Department.

22 The time limitation period on the Department's right to
23 file a notice of lien shall not run during any period of time
24 in which the order of any court has the effect of enjoining or
25 restraining the Department from filing such notice of lien. If
26 the Department finds that a company or person is about to

1 depart from the State, to conceal himself or his property, or
2 to do any other act tending to prejudice or to render wholly or
3 partly ineffectual proceedings to collect the amount due and
4 owing to the Department unless such proceedings are brought
5 without delay, or if the Department finds that the collection
6 of the amount due from any company or person will be
7 jeopardized by delay, the Department shall give the company or
8 person notice of such findings and shall make demand for
9 immediate return and payment of the amount, whereupon the
10 amount shall become immediately due and payable. If the
11 company or person, within 5 days after the notice (or within
12 such extension of time as the Department may grant), does not
13 comply with the notice or show to the Department that the
14 findings in the notice are erroneous, the Department may file
15 a notice of jeopardy assessment lien in the office of the
16 recorder of the county in which any property of the company or
17 person may be located and shall notify the company or person of
18 the filing. The jeopardy assessment lien shall have the same
19 scope and effect as the statutory lien provided for in this
20 Section. If the company or person believes that the company or
21 person does not owe some or all of the tax for which the
22 jeopardy assessment lien against the company or person has
23 been filed, or that no jeopardy to the revenue in fact exists,
24 the company or person may protest within 20 days after being
25 notified by the Department of the filing of the jeopardy
26 assessment lien and request a hearing, whereupon the

1 Department shall hold a hearing in conformity with the
2 provisions of this Code and, pursuant thereto, shall notify
3 the company or person of its findings as to whether or not the
4 jeopardy assessment lien will be released. If not, and if the
5 company or person is aggrieved by this decision, the company
6 or person may file an action for judicial review of the final
7 determination of the Department in accordance with the
8 Administrative Review Law. If, pursuant to such hearing (or
9 after an independent determination of the facts by the
10 Department without a hearing), the Department determines that
11 some or all of the amount due covered by the jeopardy
12 assessment lien is not owed by the company or person, or that
13 no jeopardy to the revenue exists, or if on judicial review the
14 final judgment of the court is that the company or person does
15 not owe some or all of the amount due covered by the jeopardy
16 assessment lien against them, or that no jeopardy to the
17 revenue exists, the Department shall release its jeopardy
18 assessment lien to the extent of such finding of nonliability
19 for the amount, or to the extent of such finding of no jeopardy
20 to the revenue. The Department shall also release its jeopardy
21 assessment lien against the company or person whenever the
22 amount due and owing covered by the lien, plus any interest
23 which may be due, are paid and the company or person has paid
24 the Department in cash or by guaranteed remittance an amount
25 representing the filing fee for the lien and the filing fee for
26 the release of that lien. The Department shall file that

1 release of lien with the recorder of the county where that lien
2 was filed.

3 Nothing in this Section shall be construed to give the
4 Department a preference over the rights of any bona fide
5 purchaser, holder of a security interest, mechanics
6 lienholder, mortgagee, or judgment lien creditor arising prior
7 to the filing of a regular notice of lien or a notice of
8 jeopardy assessment lien in the office of the recorder in the
9 county in which the property subject to the lien is located.
10 For purposes of this Section, "bona fide" shall not include
11 any mortgage of real or personal property or any other credit
12 transaction that results in the mortgagee or the holder of the
13 security acting as trustee for unsecured creditors of the
14 company or person mentioned in the notice of lien who executed
15 such chattel or real property mortgage or the document
16 evidencing such credit transaction. The lien shall be inferior
17 to the lien of general taxes, special assessments, and special
18 taxes levied by any political subdivision of this State. In
19 case title to land to be affected by the notice of lien or
20 notice of jeopardy assessment lien is registered under the
21 provisions of the Registered Titles (Torrens) Act, such notice
22 shall be filed in the office of the Registrar of Titles of the
23 county within which the property subject to the lien is
24 situated and shall be entered upon the register of titles as a
25 memorial or charge upon each folium of the register of titles
26 affected by such notice, and the Department shall not have a

1 preference over the rights of any bona fide purchaser,
2 mortgagee, judgment creditor, or other lienholder arising
3 prior to the registration of such notice. The regular lien or
4 jeopardy assessment lien shall not be effective against any
5 purchaser with respect to any item in a retailer's stock in
6 trade purchased from the retailer in the usual course of the
7 retailer's business.

8 (Source: P.A. 102-775, eff. 5-13-22.)

9 (215 ILCS 5/500-140)

10 (Section scheduled to be repealed on January 1, 2027)

11 Sec. 500-140. Injunctive relief. A person required to be
12 licensed under this Article but failing to obtain a valid and
13 current license under this Article constitutes a public
14 nuisance. The Director may report the failure to obtain a
15 license to the Attorney General, whose duty it is to apply
16 forthwith by complaint on relation of the Director in the name
17 of the people of the State of Illinois, for injunctive relief
18 in the circuit court of the county where the failure to obtain
19 a license occurred to enjoin that person from acting in any
20 capacity that requires such a license ~~failing to obtain a~~
21 ~~license~~. Upon the filing of a verified petition in the court,
22 the court, if satisfied by affidavit or otherwise that the
23 person is required to have a license and does not have a valid
24 and current license, may enter a temporary restraining order
25 without notice or bond, enjoining the defendant from acting in

1 any capacity that requires such license. A copy of the
2 verified complaint shall be served upon the defendant, and the
3 proceedings shall thereafter be conducted as in other civil
4 cases. If it is established that the defendant has been, or is
5 engaged in any unlawful practice, the court may enter an order
6 or judgment perpetually enjoining the defendant from further
7 engaging in such practice. In all proceedings brought under
8 this Section, the court, in its discretion, may apportion the
9 costs among the parties, including the cost of filing the
10 complaint, service of process, witness fees and expenses,
11 court reporter charges, and reasonable attorney fees. In case
12 of the violation of any injunctive order entered under the
13 provisions of this Section, the court may summarily try and
14 punish the offender for contempt of court. The injunctive
15 relief available under this Section is in addition to and not
16 in lieu of all other penalties and remedies provided in this
17 Code.

18 (Source: P.A. 92-386, eff. 1-1-02.)

19 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

20 (Text of Section WITHOUT the changes made by P.A. 94-677,
21 which has been held unconstitutional)

22 Sec. 1204. (A) The Director shall promulgate rules and
23 regulations which shall require each insurer licensed to write
24 property or casualty insurance in the State and each syndicate
25 doing business on the Illinois Insurance Exchange to record

1 and report its loss and expense experience and other data as
2 may be necessary to assess the relationship of insurance
3 premiums and related income as compared to insurance costs and
4 expenses. The Director may designate one or more rate service
5 organizations or advisory organizations to gather and compile
6 such experience and data. The Director shall require each
7 insurer licensed to write property or casualty insurance in
8 this State and each syndicate doing business on the Illinois
9 Insurance Exchange to submit a report, on a form furnished by
10 the Director, showing its direct writings in this State and
11 companywide.

12 (B) Such report required by subsection (A) of this Section
13 may include, but not be limited to, the following specific
14 types of insurance written by such insurer:

15 (1) Political subdivision liability insurance reported
16 separately in the following categories:

17 (a) municipalities;

18 (b) school districts;

19 (c) other political subdivisions;

20 (2) Public official liability insurance;

21 (3) Dram shop liability insurance;

22 (4) Day care center liability insurance;

23 (5) Labor, fraternal or religious organizations
24 liability insurance;

25 (6) Errors and omissions liability insurance;

26 (7) Officers and directors liability insurance

1 reported separately as follows:

2 (a) non-profit entities;

3 (b) for-profit entities;

4 (8) Products liability insurance;

5 (9) Medical malpractice insurance;

6 (10) Attorney malpractice insurance;

7 (11) Architects and engineers malpractice insurance;

8 and

9 (12) Motor vehicle insurance reported separately for
10 commercial and private passenger vehicles as follows:

11 (a) motor vehicle physical damage insurance;

12 (b) motor vehicle liability insurance.

13 (C) Such report may include, but need not be limited to the
14 following data, both specific to this State and companywide,
15 in the aggregate or by type of insurance for the previous year
16 on a calendar year basis:

17 (1) Direct premiums written;

18 (2) Direct premiums earned;

19 (3) Number of policies;

20 (4) Net investment income, using appropriate estimates

21 where necessary;

22 (5) Losses paid;

23 (6) Losses incurred;

24 (7) Loss reserves:

25 (a) Losses unpaid on reported claims;

26 (b) Losses unpaid on incurred but not reported

1 claims;

2 (8) Number of claims:

3 (a) Paid claims;

4 (b) Arising claims;

5 (9) Loss adjustment expenses:

6 (a) Allocated loss adjustment expenses;

7 (b) Unallocated loss adjustment expenses;

8 (10) Net underwriting gain or loss;

9 (11) Net operation gain or loss, including net
10 investment income;

11 (12) Any other information requested by the Director.

12 (C-3) Additional information by an advisory organization
13 as defined in Section 463 of this Code.

14 (1) An advisory organization as defined in Section 463
15 of this Code shall report annually the following
16 information in such format as may be prescribed by the
17 Secretary:

18 (a) paid and incurred losses for each of the past
19 10 years;

20 (b) medical payments and medical charges, if
21 collected, for each of the past 10 years;

22 (c) the following indemnity payment information:
23 cumulative payments by accident year by calendar year
24 of development. This array will show payments made and
25 frequency of claims in the following categories:
26 medical only, permanent partial disability (PPD),

1 permanent total disability (PTD), temporary total
2 disability (TTD), and fatalities;

3 (d) injuries by frequency and severity;

4 (e) by class of employee.

5 (2) The report filed with the Secretary of Financial
6 and Professional Regulation under paragraph (1) of this
7 subsection (C-3) shall be made available, on an aggregate
8 basis, to the General Assembly and to the general public.
9 The identity of the petitioner, the respondent, the
10 attorneys, and the insurers shall not be disclosed.

11 (3) Reports required under this subsection (C-3) shall
12 be filed with the Secretary no later than September 1 in
13 2006 and no later than September 1 of each year
14 thereafter.

15 (D) In addition to the information which may be requested
16 under subsection (C), the Director may also request on a
17 companywide, aggregate basis, Federal Income Tax recoverable,
18 net realized capital gain or loss, net unrealized capital gain
19 or loss, and all other expenses not requested in subsection
20 (C) above.

21 (E) Violations - Suspensions - Revocations.

22 (1) Any company or person subject to this Article, who
23 willfully or repeatedly fails to observe or who otherwise
24 violates any of the provisions of this Article or any rule
25 or regulation promulgated by the Director under authority
26 of this Article or any final order of the Director entered

1 under the authority of this Article shall by civil penalty
2 forfeit to the State of Illinois a sum not to exceed
3 \$2,000. Each day during which a violation occurs
4 constitutes a separate offense.

5 (2) No forfeiture liability under paragraph (1) of
6 this subsection may attach unless a written notice of
7 apparent liability has been issued by the Director and
8 received by the respondent, or the Director sends written
9 notice of apparent liability by registered or certified
10 mail, return receipt requested, to the last known address
11 of the respondent. Any respondent so notified must be
12 granted an opportunity to request a hearing within 10 days
13 from receipt of notice, or to show in writing, why he
14 should not be held liable. A notice issued under this
15 Section must set forth the date, facts and nature of the
16 act or omission with which the respondent is charged and
17 must specifically identify the particular provision of
18 this Article, rule, regulation or order of which a
19 violation is charged.

20 (3) No forfeiture liability under paragraph (1) of
21 this subsection may attach for any violation occurring
22 more than 2 years prior to the date of issuance of the
23 notice of apparent liability and in no event may the total
24 civil penalty forfeiture imposed for the acts or omissions
25 set forth in any one notice of apparent liability exceed
26 \$100,000.

1 (4) All administrative hearings conducted pursuant to
2 this Article are subject to 50 Ill. Adm. Code 2402 and all
3 administrative hearings are subject to the Administrative
4 Review Law.

5 (5) The civil penalty forfeitures provided for in this
6 Section are payable to the General Revenue Fund of the
7 State of Illinois, and may be recovered in a civil suit in
8 the name of the State of Illinois brought in the Circuit
9 Court in Sangamon County or in the Circuit Court of the
10 county where the respondent is domiciled or has its
11 principal operating office.

12 (6) In any case where the Director issues a notice of
13 apparent liability looking toward the imposition of a
14 civil penalty forfeiture under this Section that fact may
15 not be used in any other proceeding before the Director to
16 the prejudice of the respondent to whom the notice was
17 issued, unless (a) the civil penalty forfeiture has been
18 paid, or (b) a court has ordered payment of the civil
19 penalty forfeiture and that order has become final.

20 (7) When any person or company has a license or
21 certificate of authority under this Code and knowingly
22 fails or refuses to comply with a lawful order of the
23 Director requiring compliance with this Article, entered
24 after notice and hearing, within the period of time
25 specified in the order, the Director may, in addition to
26 any other penalty or authority provided, revoke or refuse

1 to renew the license or certificate of authority of such
2 person or company, or may suspend the license or
3 certificate of authority of such person or company until
4 compliance with such order has been obtained.

5 (8) When any person or company has a license or
6 certificate of authority under this Code and knowingly
7 fails or refuses to comply with any provisions of this
8 Article, the Director may, after notice and hearing, in
9 addition to any other penalty provided, revoke or refuse
10 to renew the license or certificate of authority of such
11 person or company, or may suspend the license or
12 certificate of authority of such person or company, until
13 compliance with such provision of this Article has been
14 obtained.

15 (9) No suspension or revocation under this Section may
16 become effective until 5 days from the date that the
17 notice of suspension or revocation has been personally
18 delivered or delivered by registered or certified mail to
19 the company or person. A suspension or revocation under
20 this Section is stayed upon the filing, by the company or
21 person, of a petition for judicial review under the
22 Administrative Review Law.

23 (Source: P.A. 94-277, eff. 7-20-05; 95-331, eff. 8-21-07.)

24 (215 ILCS 5/155.18a rep.)

25 Section 15. The Illinois Insurance Code is amended by

1 repealing Section 155.18a.

2 Section 20. The Small Employer Health Insurance Rating Act
3 is amended by changing Section 15 as follows:

4 (215 ILCS 93/15)

5 Sec. 15. Applicability and scope.

6 (a) This Act shall apply to each health benefit plan for a
7 small employer that is delivered, issued for delivery,
8 renewed, or continued in this State after July 1, 2000. For
9 purposes of this Section, the date a plan is continued shall be
10 the first rating period which commences after July 1, 2000.
11 The Act shall apply to any such health benefit plan which
12 provides coverage to employees of a small employer, except
13 that the Act shall not apply to individual health insurance
14 policies.

15 (b) This Act shall not apply to any health benefit plan for
16 a small employer that is delivered, issued, renewed, or
17 continued in this State on or after January 1, 2022. However,
18 if 42 U.S.C. 18032(c)(2) or any successor law is repealed,
19 then this Act shall apply to each health benefit plan for a
20 small employer that is delivered, issued, renewed, or
21 continued in this State on or after the date that law ceases to
22 apply to such plans.

23 (Source: P.A. 91-510, eff. 1-1-00; 92-16, eff. 6-28-01.)

1 Section 25. The Health Maintenance Organization Act is
2 amended by changing Section 5-3 as follows:

3 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

4 Sec. 5-3. Insurance Code provisions.

5 (a) Health Maintenance Organizations shall be subject to
6 the provisions of Sections 133, 134, 136, 137, 139, 140,
7 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153,
8 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2,
9 355.3, 355b, 355c, 356f, 356g.5-1, 356m, 356q, 356v, 356w,
10 356x, ~~356y~~, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6,
11 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
12 356z.15, 356z.17, 356z.18, 356z.19, 356z.20, 356z.21, 356z.22,
13 356z.23, 356z.24, 356z.25, 356z.26, 356z.28, 356z.29, 356z.30,
14 356z.30a, 356z.31, 356z.32, 356z.33, 356z.34, 356z.35,
15 356z.36, 356z.37, 356z.38, 356z.39, 356z.40, 356z.41, 356z.44,
16 356z.45, 356z.46, 356z.47, 356z.48, 356z.49, 356z.50, 356z.51,
17 356z.53 ~~256z.53~~, 356z.54, 356z.55, 356z.56, 356z.57, 356z.58,
18 356z.59, 356z.60, 364, 364.01, 364.3, 367.2, 367.2-5, 367i,
19 368a, 368b, 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402,
20 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c)
21 of subsection (2) of Section 367, and Articles IIA, VIII 1/2,
22 XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the
23 Illinois Insurance Code.

24 (b) For purposes of the Illinois Insurance Code, except
25 for Sections 444 and 444.1 and Articles XIII and XIII 1/2,

1 Health Maintenance Organizations in the following categories
2 are deemed to be "domestic companies":

3 (1) a corporation authorized under the Dental Service
4 Plan Act or the Voluntary Health Services Plans Act;

5 (2) a corporation organized under the laws of this
6 State; or

7 (3) a corporation organized under the laws of another
8 state, 30% or more of the enrollees of which are residents
9 of this State, except a corporation subject to
10 substantially the same requirements in its state of
11 organization as is a "domestic company" under Article VIII
12 1/2 of the Illinois Insurance Code.

13 (c) In considering the merger, consolidation, or other
14 acquisition of control of a Health Maintenance Organization
15 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

16 (1) the Director shall give primary consideration to
17 the continuation of benefits to enrollees and the
18 financial conditions of the acquired Health Maintenance
19 Organization after the merger, consolidation, or other
20 acquisition of control takes effect;

21 (2) (i) the criteria specified in subsection (1) (b) of
22 Section 131.8 of the Illinois Insurance Code shall not
23 apply and (ii) the Director, in making his determination
24 with respect to the merger, consolidation, or other
25 acquisition of control, need not take into account the
26 effect on competition of the merger, consolidation, or

1 other acquisition of control;

2 (3) the Director shall have the power to require the
3 following information:

4 (A) certification by an independent actuary of the
5 adequacy of the reserves of the Health Maintenance
6 Organization sought to be acquired;

7 (B) pro forma financial statements reflecting the
8 combined balance sheets of the acquiring company and
9 the Health Maintenance Organization sought to be
10 acquired as of the end of the preceding year and as of
11 a date 90 days prior to the acquisition, as well as pro
12 forma financial statements reflecting projected
13 combined operation for a period of 2 years;

14 (C) a pro forma business plan detailing an
15 acquiring party's plans with respect to the operation
16 of the Health Maintenance Organization sought to be
17 acquired for a period of not less than 3 years; and

18 (D) such other information as the Director shall
19 require.

20 (d) The provisions of Article VIII 1/2 of the Illinois
21 Insurance Code and this Section 5-3 shall apply to the sale by
22 any health maintenance organization of greater than 10% of its
23 enrollee population (including without limitation the health
24 maintenance organization's right, title, and interest in and
25 to its health care certificates).

26 (e) In considering any management contract or service

1 agreement subject to Section 141.1 of the Illinois Insurance
2 Code, the Director (i) shall, in addition to the criteria
3 specified in Section 141.2 of the Illinois Insurance Code,
4 take into account the effect of the management contract or
5 service agreement on the continuation of benefits to enrollees
6 and the financial condition of the health maintenance
7 organization to be managed or serviced, and (ii) need not take
8 into account the effect of the management contract or service
9 agreement on competition.

10 (f) Except for small employer groups as defined in the
11 Small Employer Rating, Renewability and Portability Health
12 Insurance Act and except for medicare supplement policies as
13 defined in Section 363 of the Illinois Insurance Code, a
14 Health Maintenance Organization may by contract agree with a
15 group or other enrollment unit to effect refunds or charge
16 additional premiums under the following terms and conditions:

17 (i) the amount of, and other terms and conditions with
18 respect to, the refund or additional premium are set forth
19 in the group or enrollment unit contract agreed in advance
20 of the period for which a refund is to be paid or
21 additional premium is to be charged (which period shall
22 not be less than one year); and

23 (ii) the amount of the refund or additional premium
24 shall not exceed 20% of the Health Maintenance
25 Organization's profitable or unprofitable experience with
26 respect to the group or other enrollment unit for the

1 period (and, for purposes of a refund or additional
2 premium, the profitable or unprofitable experience shall
3 be calculated taking into account a pro rata share of the
4 Health Maintenance Organization's administrative and
5 marketing expenses, but shall not include any refund to be
6 made or additional premium to be paid pursuant to this
7 subsection (f)). The Health Maintenance Organization and
8 the group or enrollment unit may agree that the profitable
9 or unprofitable experience may be calculated taking into
10 account the refund period and the immediately preceding 2
11 plan years.

12 The Health Maintenance Organization shall include a
13 statement in the evidence of coverage issued to each enrollee
14 describing the possibility of a refund or additional premium,
15 and upon request of any group or enrollment unit, provide to
16 the group or enrollment unit a description of the method used
17 to calculate (1) the Health Maintenance Organization's
18 profitable experience with respect to the group or enrollment
19 unit and the resulting refund to the group or enrollment unit
20 or (2) the Health Maintenance Organization's unprofitable
21 experience with respect to the group or enrollment unit and
22 the resulting additional premium to be paid by the group or
23 enrollment unit.

24 In no event shall the Illinois Health Maintenance
25 Organization Guaranty Association be liable to pay any
26 contractual obligation of an insolvent organization to pay any

1 refund authorized under this Section.

2 (g) Rulemaking authority to implement Public Act 95-1045,
3 if any, is conditioned on the rules being adopted in
4 accordance with all provisions of the Illinois Administrative
5 Procedure Act and all rules and procedures of the Joint
6 Committee on Administrative Rules; any purported rule not so
7 adopted, for whatever reason, is unauthorized.

8 (Source: P.A. 101-13, eff. 6-12-19; 101-81, eff. 7-12-19;
9 101-281, eff. 1-1-20; 101-371, eff. 1-1-20; 101-393, eff.
10 1-1-20; 101-452, eff. 1-1-20; 101-461, eff. 1-1-20; 101-625,
11 eff. 1-1-21; 102-30, eff. 1-1-22; 102-34, eff. 6-25-21;
12 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff.
13 1-1-22; 102-589, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665,
14 eff. 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22;
15 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff.
16 1-1-23; 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093,
17 eff. 1-1-23; 102-1117, eff. 1-13-23; revised 1-22-23.)

18 Section 30. The Managed Care Reform and Patient Rights Act
19 is amended by changing Section 10 as follows:

20 (215 ILCS 134/10)

21 Sec. 10. Definitions.

22 "Adverse determination" means a determination by a health
23 care plan under Section 45 or by a utilization review program
24 under Section 85 that a health care service is not medically

1 necessary.

2 "Clinical peer" means a health care professional who is in
3 the same profession and the same or similar specialty as the
4 health care provider who typically manages the medical
5 condition, procedures, or treatment under review.

6 "Department" means the Department of Insurance.

7 "Emergency medical condition" means a medical condition
8 manifesting itself by acute symptoms of sufficient severity,
9 regardless of the final diagnosis given, such that a prudent
10 layperson, who possesses an average knowledge of health and
11 medicine, could reasonably expect the absence of immediate
12 medical attention to result in:

13 (1) placing the health of the individual (or, with
14 respect to a pregnant woman, the health of the woman or her
15 unborn child) in serious jeopardy;

16 (2) serious impairment to bodily functions;

17 (3) serious dysfunction of any bodily organ or part;

18 (4) inadequately controlled pain; or

19 (5) with respect to a pregnant woman who is having
20 contractions:

21 (A) inadequate time to complete a safe transfer to
22 another hospital before delivery; or

23 (B) a transfer to another hospital may pose a
24 threat to the health or safety of the woman or unborn
25 child.

26 "Emergency medical screening examination" means a medical

1 screening examination and evaluation by a physician licensed
2 to practice medicine in all its branches, or to the extent
3 permitted by applicable laws, by other appropriately licensed
4 personnel under the supervision of or in collaboration with a
5 physician licensed to practice medicine in all its branches to
6 determine whether the need for emergency services exists.

7 "Emergency services" means, with respect to an enrollee of
8 a health care plan, transportation services, including but not
9 limited to ambulance services, and covered inpatient and
10 outpatient hospital services furnished by a provider qualified
11 to furnish those services that are needed to evaluate or
12 stabilize an emergency medical condition. "Emergency services"
13 does not refer to post-stabilization medical services.

14 "Enrollee" means any person and his or her dependents
15 enrolled in or covered by a health care plan.

16 "Health care plan" means a plan, including, but not
17 limited to, a health maintenance organization, a managed care
18 community network as defined in the Illinois Public Aid Code,
19 or an accountable care entity as defined in the Illinois
20 Public Aid Code that receives capitated payments to cover
21 medical services from the Department of Healthcare and Family
22 Services, that establishes, operates, or maintains a network
23 of health care providers that has entered into an agreement
24 with the plan to provide health care services to enrollees to
25 whom the plan has the ultimate obligation to arrange for the
26 provision of or payment for services through organizational

1 arrangements for ongoing quality assurance, utilization review
2 programs, or dispute resolution. Nothing in this definition
3 shall be construed to mean that an independent practice
4 association or a physician hospital organization that
5 subcontracts with a health care plan is, for purposes of that
6 subcontract, a health care plan.

7 For purposes of this definition, "health care plan" shall
8 not include the following:

9 (1) indemnity health insurance policies including
10 those using a contracted provider network;

11 (2) health care plans that offer only dental or only
12 vision coverage;

13 (3) preferred provider administrators, as defined in
14 Section 370g(g) of the Illinois Insurance Code;

15 (4) employee or employer self-insured health benefit
16 plans under the federal Employee Retirement Income
17 Security Act of 1974;

18 (5) health care provided pursuant to the Workers'
19 Compensation Act or the Workers' Occupational Diseases
20 Act; and

21 (6) except with respect to subsections (a) and (b) of
22 Section 65 and subsection (a-5) of Section 70,
23 not-for-profit voluntary health services plans with health
24 maintenance organization authority in existence as of
25 January 1, 1999 that are affiliated with a union and that
26 only extend coverage to union members and their

1 dependents.

2 "Health care professional" means a physician, a registered
3 professional nurse, or other individual appropriately licensed
4 or registered to provide health care services.

5 "Health care provider" means any physician, hospital
6 facility, facility licensed under the Nursing Home Care Act,
7 long-term care facility as defined in Section 1-113 of the
8 Nursing Home Care Act, or other person that is licensed or
9 otherwise authorized to deliver health care services. Nothing
10 in this Act shall be construed to define Independent Practice
11 Associations or Physician-Hospital Organizations as health
12 care providers.

13 "Health care services" means any services included in the
14 furnishing to any individual of medical care, or the
15 hospitalization incident to the furnishing of such care, as
16 well as the furnishing to any person of any and all other
17 services for the purpose of preventing, alleviating, curing,
18 or healing human illness or injury including behavioral
19 health, mental health, home health, and pharmaceutical
20 services and products.

21 "Medical director" means a physician licensed in any state
22 to practice medicine in all its branches appointed by a health
23 care plan.

24 "Person" means a corporation, association, partnership,
25 limited liability company, sole proprietorship, or any other
26 legal entity.

1 "Physician" means a person licensed under the Medical
2 Practice Act of 1987.

3 "Post-stabilization medical services" means health care
4 services provided to an enrollee that are furnished in a
5 licensed hospital by a provider that is qualified to furnish
6 such services, and determined to be medically necessary and
7 directly related to the emergency medical condition following
8 stabilization.

9 "Stabilization" means, with respect to an emergency
10 medical condition, to provide such medical treatment of the
11 condition as may be necessary to assure, within reasonable
12 medical probability, that no material deterioration of the
13 condition is likely to result.

14 "Utilization review" means the evaluation of the medical
15 necessity, appropriateness, and efficiency of the use of
16 health care services, procedures, and facilities.

17 "Utilization review program" means a program established
18 by a person to perform utilization review.

19 (Source: P.A. 101-452, eff. 1-1-20; 102-409, eff. 1-1-22.)

20 Section 99. Effective date. This Act takes effect July 1,
21 2023.

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INDEX

2

Statutes amended in order of appearance

3

40 ILCS 5/1-110.6

4

40 ILCS 5/1-110.10

5

40 ILCS 5/1-110.15

6

40 ILCS 5/1-113.4

7

40 ILCS 5/1-113.4a

8

40 ILCS 5/1-113.5

9

40 ILCS 5/1-113.18

10

40 ILCS 5/2-162

11

40 ILCS 5/3-110

from Ch. 108 1/2, par. 3-110

12

40 ILCS 5/4-108

from Ch. 108 1/2, par. 4-108

13

40 ILCS 5/4-109.3

14

40 ILCS 5/18-169

15

40 ILCS 5/22-1004

16

215 ILCS 5/143.20a

from Ch. 73, par. 755.20a

17

215 ILCS 5/155.18

from Ch. 73, par. 767.18

18

215 ILCS 5/155.19

from Ch. 73, par. 767.19

19

215 ILCS 5/155.36

20

215 ILCS 5/370c

from Ch. 73, par. 982c

21

215 ILCS 5/412

from Ch. 73, par. 1024

22

215 ILCS 5/500-140

23

215 ILCS 5/1204

from Ch. 73, par. 1065.904

24

215 ILCS 5/155.18a rep.

25

215 ILCS 93/15

1 215 ILCS 125/5-3

from Ch. 111 1/2, par. 1411.2

2 215 ILCS 134/10